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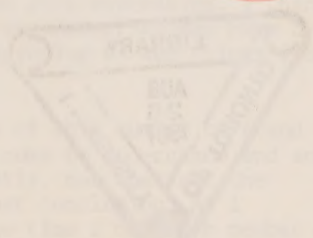
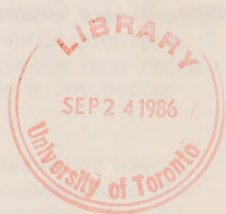


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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY  
ALLEGED CONFLICT OF INTEREST  
FRIDAY, SEPTEMBER 19, 1986



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

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O'Connor, T. P. (Oakville PC) for Mr. Turner

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Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

Witnesses:

Fontaine, R. (Cochrane North L)

Pratte, G. J., Counsel to Mr. Fontaine; with Blake, Cassels and Graydon



LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Friday, September 19, 1986

The committee met at 2:03 p.m. in committee room 1.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: Mr. Fontaine was sworn in on his previous appearance, so that stands in any event. He has indicated he wants to make a short statement and then he will be available for questions from the committee.

Mr. Fontaine: Mr. Chairman and members of the committee, I am very grateful to the committee for giving me the opportunity to reappear today.

The last three months have been for me and the members of my family the hardest, most painful we have ever lived through. At times, I have felt vindictive and very angry. I could not understand why some of my own colleagues were attacking me relentlessly, apparently without mercy. I knew I had done nothing wrong; I had committed no dishonest act; I had not acted for my own benefit. I had not deliberately tried to hide anything from anyone. My sole purpose from the day I was elected an MPP was to serve the people of my riding and in my capacity as Minister of Northern Development and Mines to serve the people of this province.

Having spent much of my life helping other people and having been actively involved in various charitable causes, I regarded it as a high honour and great opportunity to have the chance to serve and help a whole province. I think it is obvious to anyone here that I did not gain financially from being in office. On the contrary, it is clear that I would have done a lot better had I stayed out of politics.

The conviction that I had not acted improperly, in the sense of having acted for personal gain, made it difficult for me at first to understand the concerns that many of the members of this committee were expressing. I think the fact that some of the attacks on my character and integrity may have been a bit unfair made it even more difficult in the beginning to see things from these members' point of view.

However, having had the time over the course of this summer to stand back and reflect on this entire situation, I have come to understand and see why it was so important, not only that I act honestly, but that all the appearances surrounding my actions also lead to that conclusion. As I explained on a previous occasion, my life up to the time I became a member of this assembly had largely been spent in a very small community where everyone knew everybody else and I, in particular, was well known.

In that context, appearances did not much matter. Appearances did not matter in my religion either. In fact, my religious beliefs taught me to be very suspicious of appearances. I do not think that it is right to judge a person by the colour of his skin, by the look of his clothes or by the way he speaks. I thought that if it was wrong for me to judge others by appearances, it was equally wrong that I be judged on the basis of appearances.



What I did not fully appreciate then was that being an elected official, and a minister in a province of some 8.5 million people necessarily means that I am involved in the management of the assets and, indeed, lives of a great many people who do not know me personally. In that context, I cannot count on each citizen's personal knowledge of me to retain his trust in me and to preserve his trust in our political system, which is absolutely essential to the survival of our democratic society and institutions. The electorate, the population of Ontario, only have appearances to go by when they judge me or the conduct of any other political official. It cannot be otherwise.

In an ideal world, perhaps everyone would know the truth about everyone else; but obviously, we have a very imperfect world and the best we can do is to judge on the basis of appearances. In that light, I understand very well now why my colleagues and the public in general would be concerned by the fact that I held shares in Golden Tiger while being mines minister and that I had some dealings with an official of the Ministry of Natural Resources over the forest management agreement which could reasonably be seen as an attempt to influence the process for my own financial benefit.

14:10

In neither case do I think there was an actual conflict of interest since none of my public acts were in any way influenced by my financial holdings. Still, especially with regard to the FMA, I should not have put myself, or allowed others to put me, in that position. I was merely trying to achieve for everyone in the Hearst area something that everyone in this room will agree has to be achieved. My motives were honourable, but I see now that my actions could have been interpreted differently by some.

Therefore, I understand how some of my colleagues in this committee might have criticized me and used some language that was perhaps inappropriate in view of the true facts. In the heat of battle and when you are under pressure, you do not always say exactly what you intend to say. This is why I really hold no grudge against Mr. Sterling, who used some words, or may have allowed others to use words on his behalf, that he now regrets and for which he has apologized.

He apologized, and I believe him without reservation when he says he has gone through considerable anguish as a result of the language attributed to him in the Progressive Conservative press release. I know what it means to be put in situations you had not intended, to realize after the fact that something you did or somehow allowed to be done was not appropriate. There may be nothing more difficult in life than having to live with the consequences of actions whose implications you did not realize at the time.

Before concluding, I know some members of this committee have expressed concern over what they perceive as certain discrepancies between my testimony and that of others who have appeared before the committee. To a certain extent, whether there is an inconsistency is also a matter of opinion. Still, I myself can see that in certain areas I did not, under the pressure of cross-examination, always give the clearest of answers. I shall leave it to the members of the committee to raise any concern with me on that subject and I will do my very best to give them an explanation.

Before we begin, I can assure this committee, upon my word of honour and my oath as a member of this assembly, that I have never before this committee, in the Legislative Assembly or anywhere else for that matter deliberately said anything intended to mislead any member of this committee or the public.

Mr. O'Connor: Thank you, Mr. Fontaine, for agreeing to reattend before us. We understand you are cutting short a holiday with your family to be here in order to assist in accommodating our schedule. We appreciate that.

May I first direct your attention to your original statement to us back on July 23. I am looking at the copy of Hansard of that statement rather than the statement itself. In the third paragraph, you are talking about Ms. Eberts, the questions she asked you and the form you completed for her. You note, "She then provided me with a copy of the disclosure form she prepared and which I received on June 24, 1986." I think that was later corrected, with the assistance of your counsel, to July 24, 1986, and it should have been 1985. Is that correct? Can you confirm to me that the form you are referring to that you received back from Ms. Eberts was, in fact, received on July 24, 1985?

Mr. Fontaine: Yes. That is July 24, 1985.

Mr. O'Connor: That is correct. I notice that the form you refer to does not bear the date of July 24, 1985. I believe where you got that date, and perhaps you can correct me, was the date upon which you received the letter that accompanied that form. Is that correct?

Mr. Fontaine: Yes.

Mr. O'Connor: I am looking at a copy of the letter. Do you have one before you? It is dated July 9, 1985.

Mr. Fontaine: Yes.

Mr. O'Connor: It is directed to you. It is marked "Private and Confidential." It is received and date-stamped in your minister's office, July 24, 1985. Is that right?

Mr. Fontaine: Yes.

Mr. O'Connor: You will notice the second paragraph, which says:

"In our conversations you have indicated that you are prepared to take a number of steps to comply with the conflict guidelines, and I summarize the main ones here. With respect to Maison Variety, which has contracts with the government, you are removing yourself from the company. You know that the shares you and your wife hold in listed companies (Golden Tiger Exploration and Villeneuve Resources) will either have to be sold or placed in a blind trust. I believe you have considered resigning from your directorship at Northern College."

You got that letter, I take it, on July 24. Is that correct?

Mr. Fontaine: Yes.

Mr. O'Connor: Did you read it at the time?

Mr. Fontaine: Yes, I read it.

Mr. O'Connor: You therefore acknowledge that Ms. Eberts in that letter was advising you that you should either sell or place in a blind trust your Golden Tiger Exploration shares. Is that right?

Mr. Fontaine: I want to remind you that letter went to Mr. Gagné too. This letter went to my accountant in Kapuskasing too. That letter went to him too.

Mr. O'Connor: Yes, as you have indicated and the letter indicates, a copy went to Mr. Gagné.

Mr. Fontaine: Yes.

Mr. O'Connor: But as you indicated, you got a copy of it yourself.

Mr. Fontaine: Yes.

Mr. O'Connor: You got the original, I presume. The concern I have is that in your statement to us, back on July 23, page M-6--

Mr. Callahan: Would that be the afternoon or the morning?

Mr. O'Connor: It is the morning, when he was reading his statement at the outset of his evidence.

At the bottom of page M-6, you say:

"In summary then:

"1. The Golden Tiger shares which I and my family owned, except for the escrow ones which I did not remember at the time, were disclosed as early as July 1985.

"2. As soon as I was advised to sell my Golden Tiger shares, I did so."

My difficulty is you did not sell them, of course, until, we know, December 10, 11 and 12. It appears from this letter which you received in July that you were told to sell them in July.

Mr. Fontaine: No. No. No.

Mr. O'Connor: No? Can you explain that apparent discrepancy?

Mr. Fontaine: It was either to be sold or placed in a blind trust. I told you in my statement that André Gagné had definite--he was working on it. When November arrived, when they decided not to put it in a blind trust, I was told to sell them. That is it.

Mr. O'Connor: Do you remember having any conversations about the matter with Mary Eberts prior to the receiving of that letter of July 9?

Mr. Fontaine: Some conversations with her?

Mr. O'Connor: Yes.

Mr. Fontaine: I told you that we met in June to give the report of all my assets.

Mr. O'Connor: Did she not in those conversations tell you that you had to sell your shares?



Mr. Fontaine: Not immediately. As you know, Mr. Gagné as a witness talked about it too. He was a witness here, and he said the shares would eventually have to be sold or put in a blind trust. He said there was no rush. That was--

Mr. O'Connor: That was Mr. Gagné saying that.

Mr. Fontaine: Yes.

Mr. O'Connor.: But I am talking about Ms. Eberts.

Mr. Fontaine: He was there with me, and he was the one that took my affairs after that.

Mr. O'Connor: I am referring to Ms. Eberts. Her evidence to us was that she had some conversations about selling them or putting them in a blind trust, and the letter confirms that.

Mr. Fontaine: To be sold or put in a blind trust. You are right.

Mr. O'Connor: In further questioning of her, she indicated that she was talking to you in terms of selling those shares. Did she not tell you to sell them at that time?

Mr. Fontaine: You have to refer to the letter, and that is what she said. You have got to refer to the letter, and the letter is the one.

Mr. O'Connor: So at no time did she tell you outside of the letter--that is, orally--to sell those shares.

Mr. Fontaine: Not to sell immediately, no. I am sure if you read her testimony--Ms. Eberts depends on the letter too.

14:20

Mr. O'Connor: We have heard her testimony, and I suggest she was suggesting to you that they should be sold; because of your situation as the Minister of Northern Development and Mines and those being mining shares--

Mr. Fontaine: The letter does not say that.

Mr. O'Connor: --it would have been appropriate to put them into a blind trust of offer them for sale.

Mr. Fontaine: The letter does not say that.

Mr. Chairman: I prefer that you take your time in answering the questions, and if you want to confer with your counsel that you do that. I would rather you have the question and your answer clear than feel any urgency to reply quickly.

Mr. O'Connor: Is there more to his answer or may I continue?

Mr. Pratte: There is more.

Mr. Fontaine: On page M-21, she refers--the letter was intended to be the reflection of the conversation we had. If it says that in the letter, then it was going by that, and then that is what the conversation was all about.

Mr. O'Connor: Okay. Your understanding of the meaning of that letter was that you could either sell it or put it into a blind trust and you were going to decide when to do that and--

Mr. Fontaine: My accountant and the people involved in that.

Mr. O'Connor: Last week, we also heard from Mr. Martin, who is a friend of yours, as you have indicated, and the president of Golden Tiger, wherein he indicates that he had several conversations with you in the fall of 1985. I think you confirmed in your evidence that you had some conversations with him. Is that correct?

Mr. Fontaine: Yes.

Mr. O'Connor: I read to him a transcript of an interview he gave to a reporter wherein it appears he was saying he said to you that he urged you to sell your shares. He is alleged to have said: "René, you're a minister. You have to sell it." Do you recall his ever telling you that?

Mr. Fontaine: No, I do not; not about the--

Mr. O'Connor: Did Mr. Martin ever talk to you about selling your shares?

Mr. Fontaine: Selling my shares or--what did you say before?

Mr. O'Connor: Selling yours shares in Golden Tiger?

Interjection.

Mr. O'Connor: Let me make it general first. Did Mr. Martin have a conversation with you about selling your shares in Golden Tiger?

Mr. Fontaine: In November; we discussed that in November.

Mr. O'Connor: You discussed it in November?

Mr. Fontaine: Yes, when I told him I was selling out, and there was a discussion there that I was selling my shares and everything.

Mr. O'Connor: Was there a willingness on your part to sell them, or did he have to talk you into it?

Mr. Fontaine: No, he did not have to talk me into it. My accountant told me to sell. Right away I phoned Mr. Carrier, but he was not there. A few days later, I got hold of Martin and we discussed that. I said, "I have got to sell my shares before the end of the year." That was probably in November or the first day in December or at the end of November; I do not recall, but it is in that vicinity.

Mr. O'Connor: So it is incorrect that he was in fact urging you to sell and that you were resisting that advice. Is that right?

Mr. Fontaine: Yes. When you read the transcript, he did not--you asked that, but he said "probably" and "I think so." You know. When he was questioned about what he did say to me, he did not say he forced me to sell.

Mr. O'Connor: He wanted to hang on to it?

"Mr. Martin: He told me his deadline would be the end of December.

"Mr. O'Connor: But for that deadline, he wanted to hold on to it. Is that correct?

"Mr. Martin: I really cannot recall."

And you asked again--there was some argument he was making that he was going to hold on to those shares because they were going to go a lot higher.

"Mr. Martin: No. He was just trying to get even; not lose too much money...."

"Mr. O'Connor: ...but for you, Mr. Martin...he would have held on to the shares?"

"Mr. Martin: I think he would have sold them before the deadline...."

"Mr. O'Connor: Were you not in fact urging him to sell as quickly as possible?

"Mr. Martin: Maybe not quite that way, but he told me he had until the end of December."

Mr. O'Connor: Okay. So his original statement to a reporter that he was trying to force you to sell them but you did not want to sell them was incorrect. Is that right?

Mr. Fontaine: He did not say that either in his answer over here.

Mr. O'Connor: No, but he confirmed that he said to the reporter that the following conversation took place:

He was asked by Mr. Ganley, the reporter in question, "But he was a cabinet minister late last year when these other stocks were sold through a broker."

Mr. Martin's answer was, "Yeah, but he did it inside the deadline."

Mr. Ganley said, "Right."

Then Mr. Martin said: "I forced him to sell it. He didn't want to.

"Question: How come?"

"Answer: Well, he figured it was going a lot higher. I said: 'René, you're a minister. You have to sell it.' I arranged a private sale for him, which went through the broker. I think he made a few dollars' profit, but not very much."

Mr. Morin: Which Hansard are you referring to?

Mr. O'Connor: I am reading page M-13 on September 12.

Mr. Fontaine: But his answer to that is later on.

Mr. O'Connor: I will get to that. What I am asking you is whether his version of the facts as he first stated them to the reporter is incorrect. Is that your testimony?



Mr. Fontaine: That is my answer. When you asked him yourself whether he had said certain things to the Toronto Sun, he said, "Probably," and "I think so," but he was not sure he had said those things.

Mr. O'Connor: Your evidence is that he never said to you: "René, you're a minister. You have to sell it." he never said that.

Mr. Fontaine: No. If he had asked me some question about this, such as, "Why don't you sell?" I would have said, "It is in the hands of my accountant." I said over here that it was in the hands of my accountant all summer to decide what to do with this. It was stated to everybody who wanted to hear that my affairs were in their hands.

Mr. O'Connor: I would like to ask you some questions about the public underwriting that took place on November 10, 1985. Do you recall that circumstance? Do you recall that Golden Tiger issued a public underwriting, \$1.4 million? Is that right?

Mr. Fontaine: Do I recall it?

Mr. O'Connor: Do you know that happened on November 10?

Mr. Fontaine: I know now, but I did not know at that time.

Mr. O'Connor: You did not know at the time.

Mr. Fontaine: No, that he was making an underwriting.

Mr. O'Connor: Do you agree with Mr. Martin's general testimony that when a company issues a public underwriting the stock usually jumps substantially in price right after that occurs?

Mr. Fontaine: I am not dealing in this. I am not an expert in that. I do not know.

Mr. O'Connor: You do not know.

Mr. Fontaine: I thought it was because there was some discovery instead. I am not an expert in that field.

Mr. O'Connor: So you have never had any experience in stock increasing in price after an underwriting.

Mr. Fontaine: No.

Mr. O'Connor: You do not know whether it would or not.

Mr. Fontaine: No.

Mr. O'Connor: Your evidence has been that you were completely unaware of that public underwriting. Is that correct?

Mr. Fontaine: I was unaware until I discussed with him and asked him to sell my shares. He told me that he had done it, that it was all finished. I said, "Good for you." When I said that, he said, "Everything is over." That was when I phoned him to sell my shares.

Mr. O'Connor: Mr. Martin advised us that the matter of a public underwriting was first discussed by the board of directors in February 1985,

at a time when you were a director. Were you involved in any discussions about it?

Mr. Fontaine: No.

Mr. O'Connor: You were a director in February 1985.

Mr. Fontaine: I could have been a director, but maybe I never went to the meeting; I do not know. I said I do not recall. I did not recall that until he mentioned it to me when I discussed that at the end of November.

Mr. O'Connor: Did you attend a directors' meeting in February 1985?

Mr. Fontaine: No.

Mr. O'Connor: In 1985, before you were elected?

Mr. Fontaine: I do not recall.

Mr. O'Connor: You do not recall, or you did not attend?

Mr. Fontaine: I was in the election, and I do not think I went. It was in February or March.

Mr. O'Connor: But the election was in May. When were you nominated?

Mr. Fontaine: March, I guess.

Mr. O'Connor: March; so in February you were not even nominated for your party's position. Is that correct?

Mr. Fontaine: I do not recall. I do not think I went there.

Mr. O'Connor: As a director, did you generally go to directors' meetings of Golden Tiger?

Mr. Fontaine: I went a few times, but most of the time they had no money to bring me. They had to pay my expenses and it was too expensive.

Mr. O'Connor: Do you know whether you went to a directors' meeting in February 1985?

Mr. Fontaine: I do not know that I went.

Mr. O'Connor: You do not know.

Mr. Fontaine: No.

14:30

Mr. O'Connor: Do you know whether you went to any directors' meetings in 1985?

Mr. Fontaine: I went to one in early 1984, and I went to the general meeting one time. I went to a few in 1982 and 1983. In 1985, I do not recall; I do not think I went. I will have to check my documents.

Mr. O'Connor: Perhaps you could let us know whether you were at the directors' meeting in February 1985. Would you?

Mr. Fontaine: Yes.

Mr. O'Connor: Your counsel is nodding affirmatively that you will let us know.

Mr. Martin says the question of an underwriting was indicated in the quarterly reports of Golden Tiger, which are sent to all the shareholders on a regular basis. Did you receive quarterly reports from Golden Tiger?

Mr. Fontaine: Where did he say that?

Mr. O'Connor: I do not know exactly where, but he did indicate it to us.

Mr. Fontaine: I want to know.

Mr. O'Connor: May we have an adjournment, Mr. Chairman? I will find it.

Mr. Chairman: What are you asking for?

Mr. O'Connor: I am asking for some time. Mr. Fontaine has asked me to indicate exactly where Mr. Martin said that.

Mr. Callahan: They all went into the box, as I recall.

Mr. O'Connor: No. You are not up to date. That is not what happened.

Mr. Chairman: Maybe I can assist a little bit. In his testimony before the committee, Mr. Martin indicated fairly clearly that he sent quarterly reports to all the directors. That is the basis of the question.

Mr. O'Connor: Entirely aside from whether or not he said he sent them, did you as a shareholder ever receive a quarterly report of the company's activities from the president?

Mr. Fontaine: I recall I received some a long time ago, maybe in 1983 and 1984, but I never read them. When they came to my house, my wife threw them all away, all those things from Golden Tiger Mining. She did not keep anything. She was throwing them in the basket. She told me that after I was here the last time.

Mr. O'Connor: You threw them in the basket without reading them. Is that correct?

Mr. Fontaine: Yes.

Mr. O'Connor: Mr. Martin indicated--and I am reading now from page M-17 of his evidence, at the bottom--

Mr. Chairman: Before you read, I want to point out to members that this is from the sitting of Friday, September 12, in the morning. The references are on pages M-17 and M-18.

Mr. O'Connor: At the bottom of that page I asked: "Quarterly reports? What are the four quarters for your company? What are the months in which you have the four quarters?" His answer was, "September 30, December, March"--I filled in: "And June. It is the calendar year?" Mr. Martin answered, "Yes." I asked: "And all the shareholders are sent a quarterly report?" He answered, "Right."



Mr. Fontaine: Not at my house, Golden Tiger. We got it once or twice, and in effect I did not read it. I read some one or two times in my life. That is it.

Mr. O'Connor: Specifically, you did not read the quarterly report of June 1985, which would have contained information about the underwriting?

Mr. Fontaine: No.

Mr. O'Connor: Do you subscribe to the Northern Miner?

Mr. Fontaine: No.

Mr. O'Connor: Do you ever read the Northern Miner?

Mr. Fontaine: I read the Northern Miner maybe once in a while, but not too often.

Mr. O'Connor: As Minister of Northern Affairs and Mines, did you read the Northern Miner?

Mr. Fontaine: No.

Mr. O'Connor: You did not.

Mr. Fontaine: I let people read it.

Mr. O'Connor: Somewhere in his evidence, Mr. Martin indicated that there were stories in the Northern Miner about the underwriting and that it was generally public knowledge within the mining community that you were going to do an underwriting. Were you aware of it from those sources?

Mr. Fontaine: No. Somehow I did not have time to read the paper. If you look at my schedule of what I did, there were 75 trips in the north and 55 speeches; so I did not have too much time to read the Northern Miner.

Mr. O'Connor: Did you take any steps to have your name taken off the mailing list of Golden Tiger?

Mr. Fontaine: No. I will do that now. I will ask the people who were using my box to change all their addresses.

Mr. O'Connor: You are sticking to your story that you had no knowledge whatsoever of the public underwriting on November 10, despite the fact that it could have come to you from three or four sources in 1985.

Mr. Fontaine: I told you that in early November I asked him to sell my shares and he told me his underwriting was finished.

Mr. O'Connor: But to answer my question, despite the fact that there were three or four ways you could have learned about it, you did not know on November 10 that there was to be an underwriting?

Mr. Fontaine: When I told him to sell my shares, he discussed that, that it was finished and that he had success. I said, "Good for you."

Mr. O'Connor: Perhaps I can ask you to answer my question yes or no. Despite the fact that you could have learned from three or four sources,

including your being a director of the company and that it was discussed at a directors' meeting, you had no knowledge whatsoever--

Mr. Fontaine: I was not a director in June 1985.

Mr. O'Connor: You were a director in February 1985, when they first discussed it. Is that correct? I just want you to confirm absolutely that you had no knowledge, despite the fact that you could have learned from three or four different sources.

Mr. Fontaine: That is correct.

Mr. O'Connor: Were you aware generally during 1985 of the price of Golden Tiger shares?

Mr. Fontaine: The price of Golden Tiger shares?

Mr. O'Connor: Yes. From time to time, in July, August or September. Did you have any discussions, or did you ever look in the papers? Were you aware of the price of the shares as time went by?

Mr. Fontaine: I looked at it a few times.

Mr. O'Connor: You did look it up a few times?

Mr. Fontaine: Yes.

Mr. O'Connor: When would that have been?

Mr. Fontaine: I do not recall.

Mr. O'Connor: What were the prices when you looked at it?

Mr. Fontaine: I think it was around 75 cents in November, around that time.

Mr. O'Connor: Around November, it was 75 cents?

Mr. Fontaine: Yes, around that time.

Mr. O'Connor: Where would you have looked it up?

Mr. Fontaine: I knew we had to make a decision to sell before the end of the year and I looked at that time, and that was it.

Mr. O'Connor: Where would you have looked up the price of the shares?

Mr. Fontaine: The Toronto Star probably. That is the paper I read.

Mr. O'Connor: I am curious why you would look in November particularly at the price of the stock.

Mr. Fontaine: I decided to sell. That is it. The time I looked, when André phoned me to sell, I did not care which price it would have been. He told me to sell, and I was selling.

Mr. O'Connor: I have one last point on those shares. Mr. Martin advised us that shortly after you were elected, which was in May, he had a

telephone conversation with you wherein you talked about the \$1.4-million underwriting. Is that not so?

Mr. Fontaine: I do not recall that, and he does not know if he called me or not. His testimony was: "I think he called me when he got elected. If I remember right, I spoke to him that one time and I said that the underwriting was proceeding. This is as far as it went. It did not go any further than that." But I do not recall. He is not sure himself.

Mr. O'Connor: He is incorrect then in his recollection?

Mr. Fontaine: First of all, I did not say he was incorrect. I said I do not recall. Second, he said himself he does not. I think he called me, but he is not too sure about it himself.

Mr. Morin: Mr. Chairman, these questions were asked previously. Look in the Knowledge of Flow-Through Shares on July 23, which I think is an exhibit you produced yesterday, Mr. O'Connor. Why do you repeat the same questions you have already asked?

Mr. O'Connor: I do not know that I have to answer questions from other members, but I will simply say I am asking questions today because Mr. Fontaine was not here yesterday.

Mr. Morin: No. That is not what I am saying. You have already asked him that question, the same question about the underwriting. Why do you have to ask again?

Mr. O'Connor: I have not asked him that question.

Mr. Morin: Yes. Take a look at the document you gave us yesterday.

Mr. Chairman: In fairness, I think Mr. O'Connor gave the committee some indication yesterday of areas of questioning he wanted to pursue. He gave us those documents and he is now pursuing those questions.

Mr. Morin: They are the same questions. That is what I am saying.

Mr. O'Connor: Mr. Chairman, I have several other areas I want to explore, but before we do that, I am wondering whether we could give other members an opportunity to ask questions on the Golden Tiger situation and then move on to other particular areas.

14:40

Mr. Chairman: I am going to stick my nose in here. I do not want to intervene, but I want to make sure all members get an opportunity to ask some questions. I am aware that some may be under pressure to go to other events later in the afternoon. I would think it would be a reasonable way to proceed to try to keep it on the topic of the Golden Tiger shares, move around the room a little bit and then maybe return. I do not want to cut people off, but if you would be mindful of the clock, you can help us in making sure everybody gets a fair chance to question.

Mr. Warner: René, my question is related to Golden Tiger, if that is what we are doing. We are going to try to cover the Golden Tiger subject first and then go on to others.



I am going to start with your statement, which I appreciate. On page 5, you say you know some members of the committee have expressed concern over what they perceive as certain discrepancies between your testimony and that of others who have appeared before us. To a certain extent, whether there is an inconsistency is a matter of opinion. You can see yourself that in certain areas, under the pressure of cross-examination, you did not always give the clearest of answers. I certainly do not deny that you and others who have appeared naturally feel under a certain amount of pressure through this whole process. You have had an opportunity to reflect on your answers and on the answers given by other witnesses.

One of the questions raised was whether you were given advice by various people, including Mr. Martin, that you should sell your Golden Tiger shares. That question has been raised and we have had a variety of responses. Quite candidly, from Mr. Martin's appearance here, I had the distinct impression that Mr. Martin had indicated to you that, because you were a minister of the crown, you should sell your shares. To be fair, you should know precisely the question that was placed.

Mr. O'Connor placed the question to Mr. Martin, "Did you discuss with him"--meaning you--"the problem he subsequently got into; that is, that he was holding shares in a mining company and because he was a minister he had to sell them?" Mr. Martin's response was, "Yes, and he told me he had to sell them before the end of December."

Should I assume from that answer that Mr. Martin did in fact advise you that you should sell the shares because you were a minister of the crown?

Mr. Fontaine: First of all, on that conversation, I would like to see when it happened. We had a discussion when I phoned him to decide whether to sell my shares because I could not get (inaudible) of Tigers.

We had a long discussion and Mr. Martin did not advise me. André Gagné was the one involved in my affairs and I do not recall whether he told me that; if he said so, I do not recall that. If he had said that to me and if I recalled it, I would say, "Paul, this is in the hands of my lawyers and my accountant and they gave me to the end of the year to put them in a blind trust or sell them." That would be my answer to him, but I do not recall that he told me that.

At the end, when I decided to sell, we had a long conversation that I had to sell that before the end of the year, and the reason, and I said I wanted to at least be clear before Christmas because the blind trust was supposed to be signed around December 21, 22 or 23. Finally, it was signed on December 23.

Mr. Warner: Okay. Did you see in your own mind, especially with respect to the mining shares and because you were minister of mines, which is kind of a unique situation, that it was a conflict and that you should do something about it? Regardless of the guidelines, regardless of which date you had to comply with it, or who did or did not give you advice, did you see in your own mind that you, as minister of mines, should not be holding mining stock? Did you see that as a conflict?

Mr. Fontaine: I see it now. But at that time--you have to go back; I left this place in July and I did not come back until September. I did not have time. Look at my record and look at the people in the north. I was just coming here for cabinet meetings and going back. From July up to March, I

visited over 75--I did not have time for that and it did not come to my mind.

I had a letter from Ms. Eberts telling me, "You do that, and you do that." I gave it to my accountant to look after. When it all arrived, he told me to do that and I did it. It did not come to my mind. Now, today, I know I should have done otherwise; but at the time, it did not occur to me.

Mr. Warner: At that time, it did not occur to you that it was a conflict?

Mr. Fontaine: No. I did not have time to think about it. That is the whole thing. From July to September, I was alone in the office. I told you that before. I had one secretary, and my deputy minister left in August and was replaced by somebody else who did not arrive until October. I did not even have time to go home. That is the truth.

Mr. Warner: René, no one has ever questioned your desire to do the job properly or your managerial commitment.

Mr. Fontaine: I did not--

Mr. Warner: What I am questioning is not the energy you put into your job or your concern for the folks in the north. What I am questioning is whether you saw that there was a conflict in being minister of mines and holding mining shares. Today, you come before us and are saying that now you see it, but before you did not because you just did not have time to think about it. Is that fair?

Mr. Fontaine: Nobody sat with me long enough to tell me, "You should do that, that and that." Nobody did that.

Mr. Warner: No one did that?

Mr. Fontaine: They sat with me for not more than 10 or 15 minutes.

Mr. Warner: Then the only one would have been Ms. Eberts at some time. Was she the only one?

Mr. Fontaine: Yes. But she was busy too; she was doing everything.

Mr. Warner: One more question. To be fair then, the Premier's office was not actively involved in informing you of what you should or should not do?

Mr. Fontaine: They gave us a little memo on the guidelines, and we had three days--it was a memo to tell us what to do, but it was mostly on what you do with your expenditures and all this. There was a little bit of this, about your business holdings. He said "Somebody will come in and see you." When they came--I said this in my statement--we met in an office over here with my accountant, and I do not think we were more than half an hour. After that, I do not know; she came to see me when I signed the--

Mr. Warner: If there had been a little more active interest on behalf of the Premier (Mr. Peterson), you might not be in hot water today.

Mr. Fontaine: No. I do not want to blame anybody. I said we were all rookies; we were just starting. Some did not know--I did not know myself--all that was happening over this thing. We just (inaudible) the rules.

Mr. Callahan: Mr. Fontaine, I want to go through this. Mrs. Eberts testified that she was just sort of a dry run. Was that your impression? She was not the authority that was to give you your final instructions. I do not know how to translate "dry run" en français.

Mr. Pratte: Mr. Fontaine does not understand "dry run."

14:50

Mr. Morin: "Dry run," René, c'est un exercice.

Mr. Fontaine: You are right. I think the way she acted, the way it was presented to me, was like that. She did not go into much detail.

Mr. Callahan: Even though she sent you the letter, presumably you were expecting Mr. Wright, Blenus Wright, to be the person who would instruct you in what you were supposed to do. Is that right?

Mr. Fontaine: I guess that was discussed with my accountant. He had a long conversation with her, did he not?

Mr. Callahan: The discussion that I gather your accountant had with Mr. Blenus Wright, did that give you certain knowledge as to the deadline that you had, when all these things had to be completed?

Mr. Fontaine: Yes. The letter from Blenus Wright in September said that--first of all, they sent me some documents for my public companies, sort of a document that I send to my accountant about a blind trust or public shares, and you talk about the other one, and you say, "I got to do that, file that, before the end of the year."

Mr. Callahan: Would it be fair to say that you were relying on a lot of other people? You were relying on Mr. Gagne, your accountant. Is that right?

Mr. Fontaine: Yes.

Mr. Callahan: You were relying on Mrs. Eberts.

Mr. Fontaine: Yes. But I do not want to blame anyone.

Mr. Callahan: No, no. It is not a question of blame. And you were, I gather, relying upon Mr. Wright to instruct you as to how it should be done.

Mr. Fontaine: I was waiting for instructions. All the time I took when you give those documents--Mrs. Eberts--my documents were given someplace else and then I thought that it was--nobody told me; I thought that was the end, it was the filing, and I was told many months later it was not the filing. So either I missed someplace or somebody did not tell me everything, I do not know.

Mr. Callahan: Did you think the things you were doing were what was expected of you as a result of your discussions with your accountant and the information he got from Blenus Wright?

Mr. Fontaine: In the few conversations I had with my accountant, I thought he was doing what he was told in the conversations he had with somebody, with other people he must have phoned.



Mr. Callahan: Those are my questions.

M. Morin: Dans ton esprit, René, quand Mme Eberts t'a écrit, elle t'a dit de vendre tes actions ou de les mettre de côté, dans une fiducie sans droit de regard. Alors toi, dans ton esprit, tu savais que tu avais jusqu'à la fin du mois de décembre soit pour vendre tes actions, soit pour les placer dans une fiducie sans droit de regard. D'accord?

M. Fontaine: Oui.

M. Morin: Bon. Si ç'avait été le cas que M. Martin t'avais dit: "René, tu es ministre, vends tes actions", ça n'aurait pas eu d'importance, vu que tu avais jusqu'à la fin du mois de décembre.

M. Fontaine: S'il m'avait dit ça, premièrement, je lui aurais répondu que ce n'était pas de ses affaires. Deuxièmement, s'il m'avait posé d'autres questions comme: "Pourquoi ne les as-tu pas vendues ou pourquoi ne les vends-tu pas?" je lui aurais répondu que c'était entre les mains de mon comptable.

Mr. Morin: So in your mind, René, you had until the end of December 1985 to sell your shares. Even though Mr. Martin may have said, "Rene, you are a minister; sell them," you knew you had to sell them or place them in a blind trust, but you had until the end of December 1985, according to instructions you had received--from whom?

Mr. Fontaine: From the letter I received from Mme Eberts and then Blenus Wright.

Mr. Morin: And Blenus Wright.

Mr. Fontaine: And then my accountant; he had that in hand. What you have got to put in is that I give it to André--that is the way I work--and then I forget it; it was his business to do it. That is the way I dealt all my life with my foremen and my millwrights. In other words, I give something to somebody and then they tell me: "Rene, that is what I got to do; go and work and forget it. I will do everything for you." I did that with André and he did his best and when he told me to sell, I sold. When Mary Eberts came to tell me to sign the blind trust, I signed the blind trust.

Mr. Morin: So you saw nothing wrong in waiting until the end of December to sell the shares, because you were given the opportunity to do so.

Mr. Fontaine: Up to the point when he told me, I never thought about it that much because he had that in his head. We discussed Blenus Wright's letter. We had to sign something, a document. We had to sign, le remplir, a document about what I had. At that time, we discussed it again and he said, "We are working on it." Then November arrived and he told me to do that, and right away I phoned the broker. That is it up to this time.

Mr. Martel: I have a couple of concerns. At the time you first appeared before us, there was no clear indication that I can recall, and if I am wrong I apologize, of the content of the Mary Eberts letter in which she told you to get rid of the shares or put them in a blind trust.

Maybe it was the questioning on our part, but I cannot recall, at that time, you indicating to us the content of that letter. That really bothered me. I am going to quite frank with you, my friend. The reason it bothered me

Mr. Chairman: You said it would be short.

Mr. Warner: Yes, I did. The answer was not short.

Mr. Chairman: It was shorter than the question.

Mr. Warner: At the time, were you in a conflict-of-interest position? I think the answer to that is either yes or no. You were either in a conflict-of-interest position or you were not. What do you think?

Mr. Fontaine: At that time, I do not think I was, if you want a yes or a no.

Mr. Villeneuve: Concerning the Ontario mineral exploration program grants, you were minister of mines and the particular area covering mines. Approximately how much of your ministry's budget was that, in dollars? Would you know that?

Mr. Fontaine: Every year it is around--as I recall, it was between \$5 million and \$7 million.

Mr. Villeneuve: Yes, the grant portion. The total budget for that part of the ministry was about \$30 million, so that the OMEP deal was the biggest item within that ministry, according to Mr. Tieman. Is that right?

Mr. Fontaine: Probably.

Mr. Villeneuve: Were you aware that Golden Tiger and Getty exploration had an application for an OMEP grant? Were you aware that a grant was being requested from your ministry?

Mr. Fontaine: This year?

Mr. Villeneuve: In 1986.

Mr. Fontaine: I know they had made a grant application a long time before, when I was involved, but I did not know this year.

Mr. Villeneuve: Were you aware that there was a request for a grant for \$187,000, Golden Tiger and Getty oil?

Mr. Fontaine: No.

Mr. Villeneuve: You were not aware of that.

Mr. Fontaine: I told you before that I was involved in 1982-83. I knew they made an application in 1984, but after that I did not follow that up, because I was out.

Mr. Villeneuve: When you go to mining meetings where miners go, and you are the minister, for instance, suppose someone has an application on file and he goes to you as the minister and says, "What is wrong with my application?" You are not aware of those applications that are on file with your ministry?

Mr. Fontaine: You do not follow up all the applications. You have people involved in that. There is a director for this program, and you let him--I told you he ran the show alone.

Mr. Villeneuve: So you as minister had nothing to do with running the show?

Mr. Fontaine: No, not that program. It was left to them, first, and then there was a change. You have to recall that this program did not come to me in July. The transfer took part of the year, and officially everything was moved only in April this year. We started work in March to move this whole part to the Treasurer (Mr. Nixon).

Mr. Villeneuve: But you are very conversant on flow-through shares and what they can do.

Mr. Fontaine: When you go to the meetings, convention people are talking about it, but I do not even know how they work.

Mr. Villeneuve: You do not know how they work?

Mr. Fontaine: No. I told you before I was not an expert in mining.

Mr. Villeneuve: You were the minister, sir, with all due respect.

Mr. Fontaine: Ask the minister whether he is an expert in health, whether he is a doctor, whether he knows what is going on at an operating table.

Mr. Villeneuve: I find it most intriguing that you were the minister in charge of a particular ministry and I wonder what you were doing there.

Mr. Fontaine: Ask the people from the mining industry what they think about me and you will see. They tell me I was the best minister of mines they ever had, because I do not know enough.

Mr. Chairman: You are the only one we have had.

Mr. Fontaine: I was just being good.

I explained this program in my first thing. It was a program that as a minister I decided to leave to the people who know them, and I did not interfere at all with them. I never had anything to do with it too much.

Mr. Villeneuve: I wish I could have been to some of the speaking engagements you had and spoke to the miners. I wonder what you spoke to them about.

Mr. Fontaine: Read my speeches. I had standing ovations all the time when I spoke to them. I must have said something good.

15:10

Mr. Sterling: Mr. Fontaine, thank you for your understanding with regard to my apology on behalf of the, I guess, research office, which produced that without my knowledge. I appreciate that. I felt bad that I let it go as long as I did.

When did you find out on the Golden Tiger shares that you had until the end of the year, or six months, to sell them or to place them in a blind trust? Where did you find that out from?



Mr. Fontaine: That was a conversation I had with the people involved in that: André Gagné, Blenus Wright and all this.

Mr. Sterling: Was it from Blenus Wright that you found you had--

Mr. Fontaine: No. But when this arrived and then I had the--Mr. Gagné told me, read that to me. Then after Blenus Wright's letter, they said we had to the end of the year to do what we had to do.

Mr. Sterling: The problem I have is that you received this letter to sell or put them in a blind trust on July 24. Blenus Wright's letter to you did not come until after September 25. Therefore, how did you know that you had until the end of the year, or would have until the end of the year, in order to deal with these shares?

Mr. Fontaine: Because I have already said it could have come, sir, on July 24 does not mean I read it on July 24. That does not mean that. Maybe somebody opened it--my secretary must have opened that. That does not mean I read it that time either. I told that to Mr. Martel. Mary Eberts told me that Wright will--

Mr. Pratte: Contact you.

Mr. Fontaine: --contact me.

Mr. Sterling: Did the price of shares have any influence on your decision as to when you were going to sell the shares or not sell the shares?

Mr. O'Connor: I am concerned, Mr. Chairman, that Mr. Pratte is answering virtually every question to the witness. Every question that is asked, there is a conversation and Mr. Pratte buzzes in his ear. Sometimes he has shaken his head affirmatively. I would prefer, as one of the members of this committee, to hear from Mr. Fontaine and his answers.

Mr. Fontaine: I was told to take my time and to discuss with my lawyer.

Mr. Chairman: I understand the concerns that have been expressed. Perhaps I am a little sensitive to the fact that the simultaneous translation services are not available this afternoon. I want to make sure that the witness does understand the question and has an opportunity to think about the reply and to respond.

Let me put it to you this way. The committee objected when Mr. Pratte answered directly and, I think, rightly. You cannot object when he takes a moment or two to advise his client. We have said he has a right to counsel. If he has a right to have a counsel present, there is no sense having one here if the counsel cannot advise the client. I think you cannot have it both ways. I do not want Mr. Pratte answering the questions directly, but I believe he has a right to advise his client on what was said, to assist him with the language, to assist him with finding facts and pieces of paper and, yes, to assist him on how to answer the question.

Mr. O'Connor: My concern is that on many questions, as they are being answered and before Mr. Fontaine has an opportunity to answer, Mr. Pratte is shaking his head negatively or affirmatively and is therefore, in a sense, becoming the witness. A lot depends on the reaction and the instant reaction of Mr. Fontaine to the--

Mr. Chairman: Okay. I understand your concern, but I understand too that there have been researchers coming forward to members of the committee all afternoon. Other members can object that they are putting words in your mouth too. I think we have to have some ways to proceed here. In my view, as the witness has counsel with him, counsel has a right to advise him, just as the researchers have the right to advise all the members and just as the clerk has the right to advise the chairman. That is the way we are going to proceed.

Mr. O'Connor: In that event, I would be content, if it would assist Mr. Fontaine, to have Mr. Pratte answer some of the questions.

Mr. Chairman: No.

Mr. O'Connor: Why go through the middleman?

Mr. Chairman: Carry on.

Mr. Callahan: Is that a motion?

Mr. Chairman: No, it is not. Mr. Sterling, do you have any further questions?

Mr. Sterling: No. I think I asked a question. I do not think I have received an answer. I asked him if the market price of the Golden Tiger shares had any influence on his decision as to when to sell those shares.

Mr. Fontaine: No.

Mr. O'Connor: Mr. Pratte said no.

Mr. Fontaine: Not Mr. Pratte either. I said no.

Mr. Sterling: You have said you did not have any knowledge that an underwriting was taking place. You had knowledge that an underwriting of Golden Tiger shares was taking place?

Mr. Fontaine: I said I had knowledge when we discussed it, when I decided to sell my shares, I discussed that with Paul and then he told me that his underwriting was over and that it was a success.

Mr. Sterling: Mr. Martin gave evidence here that normally when there is an underwriting of public shares, the price of stock goes up. Do you agree with that analysis?

Mr. Fontaine: I told Mr. O'Connor that I do not follow that thing and I do not know that much about mining. I thought it was when the mine goes up, the shares go up because somebody finds something close. It is my feeling that it had nothing to do with the issue of shares. If he said so, that must be it.

Mr. Sterling: The letter Mrs. Eberts wrote to you, which you received on July 24, had advice with regard to Golden Tiger shares. It also had considerable advice with regard to your involvement with United Sawmill. I am dealing with this particular matter because of the letter of Mrs. Eberts and how much attention was paid to this letter. The third to last paragraph says that you could not sign the forest management agreement or the Hearst

Forest Management Inc. agreement under the present guidelines, the Davis guidelines. You could not be a cabinet minister under those guidelines, but there was going to be a change in the guidelines.

The second to last paragraph says: "The immediate need for this type of arrangement arises, of course, at the time that the contract will be entered into. However, in the meantime, you would be well advised to refrain personally from any dealings with the Ministry of Natural Resources respecting this master plan, so that it cannot be said that you are influencing the negotiations."

Mr. Cloutier indicated to this committee last week that you attended a meeting with the Minister of Natural Resources (Mr. Kerrio) with regard to the FMA approximately one month after you received this letter. Why did you not follow the advice? On August 27.

Mr. Fontaine: The meeting with the minister had nothing to do with the FMA. That was for James River. When they discussed the FMA, I left with Mr. Levesque.

Mr. Sterling: The FMA was being discussed that day.

Mr. Fontaine: No, no. I was there for the other issue, with Levesque, the three. When the other parties stayed, I left.

Mr. Chairman: I take it the members want to get on to other matters. If you have any more short questions on Golden Tiger, put them on now. Let us take one short question and then I think we might adjourn for a few moments.

Mr. O'Connor: I have two short matters. The first is just a point of clarification. Did you indicate that you had no discussion with or directions from Mr. Wright or that you did discuss Golden Tiger with Mr. Wright? I did not understand your evidence in that regard.

Mr. Fontaine: Personally, I had no discussion with Mr. Wright.

Mr. O'Connor: Do you know whether anyone else did on your behalf?

Mr. Fontaine: Well, André Gagné--here it says Mr. Wright of the Ministry of the Attorney General and I discussed with André Gagné a contract. I do not know whether they discussed at that time or whether they discussed the other issue of Golden Tiger. I do not know. André Gagné and Mary Eberts, from the way it looks, met with Mr. Wright. I was not there.

Mr. O'Connor: I have one more point. Following on Mr. Martel's comments, one of the things that really disturbs me about the whole Golden Tiger situation is that in your statement to us in July 1986 you made reference to the date of July 24, 1985, and to having received back the statement on that day. Attached to that statement, of course, was this very relevant letter from Mary Eberts.

I suggest it would have seemed and would have been most appropriate for you to have made reference to that letter in your statement to us, to have attached that letter and to have discussed it with us because it is so important to these deliberations. Not only did you not do that, but similarly, Mrs. Eberts did not even bring it with her. We had to adjourn while



she went and dug out a copy somewhere. You obviously had the letter before you when you were drafting your statement a few days before you came here last time.

Did it not occur to you that there was very relevant information in that letter and that you should have shared it with us as early as July? Why would you withhold that from us at that time?

Mr. Fontaine: I did not do that intentionally. I thought it was only two lines on Golden Tiger, and when I came over here the FMA was that part of it. I explained that. What I did here was to discuss whether the shares should be sold or put in a blind trust, and I discussed that.

Now I know I should have pulled it up.

Mr. O'Connor: Those two lines, though, refer to previous conversations about selling or putting in a blind trust?

Mr. Fontaine: No.

Mr. O'Connor: It then confirms that advice in this letter. They are a pretty dynamic two lines, and you chose not to share them with us. That concerns me in relation to deciding whether you have been giving us the straight goods throughout, and I will just leave it at that.

Mr. Fontaine: Now I know I should have given it, but I want to tell you that we were the ones who gave it to Ms. Eberts, to the committee. On the FMA, we hear she said that I left with Levesque, that I did not stay there for the other discussion. That is on page M-10.

Mr. Chairman: I think this might be an appropriate point to take a break for a few moments. Perhaps we can adjourn until about 3:30 p.m.

The committee recessed at 3:24 p.m.

15:30

Mr. Chairman: We will resume. I do not want to stop any questioning on anything, but I will start by saying we had a bit of an agreement that we would spend the first time discussing matters relating to Golden Tiger and that we wanted to get into some other areas. Mr. O'Connor was kind enough to interrupt his questioning to allow other members to get on the list, and it seems to me no one can complain that he did not get a chance to ask a question. Perhaps now we could shift into other areas that are of concern to the committee and proceed from there.

Mr. O'Connor: Mr. Fontaine, on January 30, 1986, you made a statement to the Legislative Assembly in which you said in part, if I may quote from page 3615 of Hansard for this year:

"Since May 2, 1985, I have had no involvement in either United Sawmill or Hearst Forest Management. I have attended no meetings of the board of directors. I have not participated in any discussions regarding the business of Hearst Forest Management. In short, I have had no involvement in the company. As I have already stated, my only interest in Hearst Forest Management was through United Sawmill Ltd. and my shares in United Sawmill have already been placed in a frozen blind trust."

We have heard evidence from Mr. Therriault--do you know Mr. Therriault?

Mr. Fontaine: Yes.

Mr. O'Connor: He lives in Hearst. On January 21, 1986, you attended at a meeting with him and others. He has prepared a memo to file, which is part of the evidence now, dated January 21, 1986. I am quoting a brief section of it, "Fontaine is in complete agreement with our proposal for a limited salvage rate as long as it is fair with everybody and Levesque is treated the same, and Fontaine is 100 per cent behind the Hearst FMA."

Similarly, the agenda for that meeting indicates the Hearst FMA and Calstock were on the agenda for discussion. That meeting took place exactly one week before your statement that "I have not participated in any discussions regarding the business of Hearst Forest Management." How do you reconcile the statement in the House with the fact that you attended the meeting one week before?

Mr. Fontaine: From my recollection, the FMA was only put there to say it was going on; that is all. Look at the agenda over here; there were all these on the agenda. We discussed not only FMAs in this area but also the other problems of FMA roads and the tourist industry in Cochrane and all over the place. It was a general discussion. We did not go into detail on the FMA in Hearst. As I recall, we just said it was going on and that was it.

When you see Calstock over here, that refers to the native thing in Calstock. The salvage licence and the whole thing we discussed that day mostly was--when you see Brunswick Lake and Guilfoyle, it was the impact of the FMA roads on some lakes, on tourist operators and on anglers. There was a big fight in my area between the anglers and hunters on the roads of the FMA. It was a big problem in Cochrane and Hearst east of Brunswick Lake and the Spruce Falls FMA, and I did not go into detail.

My statement said I had no involvement in the forest management agreement and United Sawmill. We did not discuss United Sawmill at that meeting, nor the Hearst forest management agreement. It was only in the sense that it was going ahead; that is it.

Mr. O'Connor: My concern is this. You indicate that the discussion of the Hearst FMA--

Mr. Warner: On a point of order, Mr. Chairman: Does Mr. Fontaine have a copy of this memo? He might like to take a look at it before he answers the question. If he has not seen it, he has a right to do so.

Mr. O'Connor: That is the point I am getting to. Have you a copy of the memo prepared by Mr. Therriault of the meeting on January 21, 1986? You just said to me that the Hearst FMA, or that situation, was discussed only briefly because it was a long agenda. It indicates the meeting lasted from nine to 10:30, yet the file memo deals almost exclusively with the Hearst matter. It is mentioned once in the first paragraph, once in the second paragraph and once in the third paragraph. The memo deals almost exclusively with the FMA. I suggest it was the main topic of conversation at that meeting.

Mr. Fontaine: What memo are you taking about?

Mr. O'Connor: I am talking about Bill Therriault's memo dated January 21, 1986. It is a brief summary of what went on at that meeting.

Mr. Fontaine: In my statement in the House, I was talking about my involvement in the companies.

Mr. O'Connor: I suggest--

Mr. Fontaine: If you go back over here, it says, "Fontaine is 100 per cent...." The Hearst FMA is the concept I was 100 per cent behind--what is going on, I am telling you. I had no other involvement in the companies.

Mr. O'Connor: Mr. Fontaine--

Mr. Fontaine: As I recall, on the 21st we discussed the broad sense of the FMA. We used the arguments of what happened in other places to watch in Hearst not to build too many roads. That was a discussion in the same area as the trouble we had north of Cochrane.

Mr. O'Connor: You are agreeing with me then that the subject of discussion on January 21 was largely the FMA in Hearst?

Mr. Fontaine: No. It was other things.

Mr. O'Connor: That is what the memo says.

Mr. Chairman: Excuse me. I am going to try to assist here.

Mr. Fontaine, we have two documents that I think you have copies of and have seen. One is entitled "Fontaine Meeting," where there is a fairly lengthy list of topics. Mr. O'Connor is making reference to a file memo dated January 21, 1986, which deals almost exclusively with Levesque Lumber and the FMA. It is conceivable, of course, that there would be similar file memos on each of the other matters that were discussed. We do not have those readily at hand, but we do have them. We are working from documents that were presented to us by various party researchers as being matters they wanted to discuss. I am not sure there is quite as much confusion as might first appear.

15:40

Mr. O'Connor wants to question a little further about the particular file memo on one of those topics. Are you familiar with the documents I am talking about here?

Mr. Pratte: We have them.

Mr. Chairman: Okay. Mr. O'Connor.

Mr. O'Connor: Would you agree with me that from the file memo it appears that the Levesque situation in the Hearst FMA was a topic of conversation at that meeting?

Mr. Fontaine: It was a topic but not a long one. We did not discuss the companies at all. I am saying it was the overall picture of an FMA. We did not touch, because we were not in--there was five other people there. We did not go through that in detail, I am telling you. We discussed other things over here. We discussed the limited-entry fishing; that is about the roads I am talking about. And there were the roads with tourism; again it was a problem. Those problems arise because of the FMA roads, the (inaudible) and the Hearst; so that was another problem we discussed.



Mr. O'Connor: We then get to the January 30 memo, where you say in part, "I have not participated in any discussion regarding the business of Hearst Forest Management." How do you reconcile that flat, bald statement with the fact that you were at a meeting discussing that very thing?

Mr. Fontaine: I did not discuss the companies at all.

Mr. O'Connor: That then gets us right to the nub of this conflict-of-interest thing. How can you possibly say to us that you can discuss the question of the FMA in the abstract and not discuss the business of Hearst Forest Management, which is the company that is involved in the FMA? How do you separate those two, when you are dealing at a meeting about the FMA, when the company that is involved in the FMA is you?

Mr. Callahan: Mr. Chairman, on a point of order: I think that--

Mr. O'Connor: I would like him to answer the question.

Mr. Callahan: Mr. O'Connor, to be fair to the witness, should look at the statement in Hansard; it does talk about business.

Mr. Chairman: That is not a point of order. Let him ask his question and let the witness answer.

Mr. Callahan: I think you have to put it fairly to the witness.

Mr. O'Connor: That is the question I am asking him. How can you split hairs so finely that you can argue the business of Hearst Forest Management Inc., which is the Hearst FMA, is different from the Hearst FMA? This is what you are saying. Is that not fair?

Mr. Fontaine: I recall at that time we were discussing the problem on the FMA on the other matter we were discussing there. This meeting was not called for the FMA for Hearst. There were people from Moosonee and all over the place. It was called to look at problems in Moosonee--all the problems in my area. That was the discussion over there. It involved the FMA because there was a problem the FMA was causing other people.

Mr. O'Connor: But you did discuss the Hearst FMA, as the memo indicates.

Mr. Fontaine: He said I was behind the Hearst FMA. I could not say I am behind it in detail. I do not recall that we discussed the Hearst FMA in detail at that meeting at all, I am telling you. We discussed the implications of the FMA for the other areas we discussed over here: fishing, the tourist outfitters and all this.

Mr. O'Connor: I agree that there were other matters discussed at that meeting, but it appears from the memo--and you will have to understand where we are coming from--the Hearst FMA was a major topic; yet a week later you tell us you had never discussed that business.

Mr. Fontaine: I never discussed it.

Mr. O'Connor: I find it very difficult to accept your statement on January 30 in the light of the fact that you were at a meeting the week before discussing that very subject.

If you wish, we will go on. As I understand then--

Mr. Sterling: I want to go backwards to the August 27 meeting, which I mentioned before, that you had with Mr. Therriault and, I believe, Mr. Levesque, Mr. Cloutier and Mr. Viel down here in Toronto, as Mr. Cloutier revealed to us. Did you say just prior to the recess that you left after the James River project was discussed but before the FMA was discussed?

Mr. Fontaine: Somebody mentioned the FMA over here. The other two parties stayed there, and I left with Levesque. Okay?

Mr. Sterling: At what point did you leave?

Mr. Fontaine: After the James River meeting.

Mr. Sterling: So you were there during the James River meeting?

Mr. Fontaine: Yes. The James River meeting was arranged because of the letter that--as you say, you know that Mr. Pope had given the Hearst area 30,000 cords. The people from James River were pretty mad and they put on some pressure. Then the Hearst people came to make their presentation and I stayed there to tell them that I myself did not agree with the letter of Mr. Pope, and my friends (inaudible) did not get the 30,000 cords.

That letter was rescinded. I myself thought it was illegal, because those people had the licences, and then to be told in the middle of a five-year plan, "We are going to give cords to somebody else," I thought it was not in the agreement, but the people from Hearst wanted to make their own petition. I was there at that time.

Then in October another meeting was arranged with James River. They came and put their position, and after that this letter was rescinded.

Mr. Sterling: But the cords dealt specifically with United Sawmill, did they not?

Mr. Fontaine: The 30,000 cords were given to United Sawmill, Lecours and the other company.

Mr. Sterling: This is a month after you received the letter from Mary Eberts telling you not to deal with matters concerning your company. Your company was United Sawmill at that time, not even placed in a blind trust, and yet you attend a meeting--albeit for purposes, perhaps, that were not of benefit to United Sawmill, as you describe them in terms of your position--but you attended a meeting at which Levesque, Lecours and United, I guess, were represented by Cloutier, were discussed and were involved in the resolution of the matter, as evidenced by a letter of September 4 to Mr. Cloutier. Is that correct?

Mr. Fontaine: At that point, the discussion was about James River and the letter from Pope.

Mr. Sterling: Yes.

Mr. Fontaine: After that, when Cloutier wrote me about the road, I told them that if there is ever a third party, we will see afterwards. Then in October another meeting was arranged with James River and the letter was rescinded. The thing was out.

Mr. Sterling: But you were involved in dealing with the 30,000 cords that Mr. Pope had indicated were going to be transferred to three mills.

Mr. Fontaine: Yes.

Mr. Sterling: United Sawmill was one of those three mills.

Mr. Fontaine: But (inaudible) was not in accordance with it. I thought the letter was no good, because it was not fair.

Mr. Sterling: On January 30 you said you did not have anything to do with the business of these companies. What I am asking you is, how then do you reconcile the statement with the meeting where you were actually involved with the negotiations dealing with these 30,000 cords? How do you reconcile that?

Mr. Fontaine: I was talking about the forest management agreement.

Mr. Sterling: No, but you talk about your companies in the January 30 statement. "Since May 2, 1985, I have had no involvement in either United Sawmill or Hearst Forest Management." Do you not consider that involvement?

Mr. Fontaine: The involvement was to arrange a meeting (inaudible). I was there as the MPP. There was a discussion about these 30,000 cords. Mr. Kerrio listened to that and then I left. I was not involved in running the business, either.

Mr. Sterling: You were not involved in what?

Mr. Fontaine: In running the business.

Mr. Sterling: Not in running the business, but you were still a shareholder.

Mr. Fontaine: But still I was not involved in running the business.

Mr. Sterling: But you had the right to be involved at that point--

15:50

Mr. O'Connor: Mr. Fontaine, if I can just direct you back to your statement of January 30 in the House--

Mr. Fontaine: What I meant was that I did not have anything to do with running the business and I did not attend any of the directors' meetings. That is what I meant. I arranged the other meeting and then we went there, and they read a statement that they wanted those cords. That is it.

Mr. O'Connor: That may help me with my next question. If I could refer you to your January 30 statement again, I am quoting from one sentence on page 3615, about half way down: "It was thought sufficient to meet the guidelines that I had placed all my financial interest in United Sawmill in a blind frozen trust and that I would not participate further in the business of United Sawmill or Hearst Forest Management."

My concern is, as we have now learned, there were three subsequent meetings with Mr. Therriault, on which he has done file memos, in which you appear to discuss quite openly with him the business of Hearst Forest Management and United Sawmill. I refer to the memos of March 25, April 27 and May 12. This was within several months of having made the statement that everything is in a blind trust and you will not deal with it further.



First of all, could you refer to the March 25 memo? "At his request, I met with Mr. Fontaine in his office this p.m. We briefly discussed: (1) The recent Levesque situation relative to the Hearst Forest Management agreement and the outstanding crown dues." Do you not consider that to be dealing with the business of Hearst Forest Management?

Mr. Fontaine: My only thing about Levesque, I wanted Levesque to be part of the Hearst management unit. Personally, I felt, and I still feel, you cannot eliminate Levesque from that. They could work together. Levesque could be the third party for a while. With the experience of people in the third party, after three or four years, when the third party is over and they come back to negotiate a third party, there is always a fight. You saw that with all the pulp and paper companies on the third party.

Myself personally, when I discussed that again with Mr. Therriault, it was to be sure to try to have Levesque part of the company. I was never against Levesque, because Levesque is a friend of mine. We had differences sometimes, but it always comes back that we work together. As you know, I started this thing with him and still today he has to be part of it one way or the other. Otherwise, this thing will not fly.

When we discussed his outstanding crown dues, at that time there was a big problem. As you know, when the government goes and sees some wood--this sawmill could have gone into receivership. That was another worry I discussed. We just touched it like that, because I was glad Mr. Therriault told me there was an agreement between the outstanding crown dues and Levesque.

Then the Calstock Indian reserve situation: It is the road from the track to the reserve. The Ministry of Natural Resources does not want it any more. It was in their system, so we are going to try to get the Ministry of Transportation and Communications part of it. Again, I discussed the cutting rights with the native people. That is the 5,000 cords. As you know, the 5,000 cords was in exchange for the Albany River management. The Albany is that old point over there. If I recall, that is already across the 50th parallel. The Fahlgren report mentioned that economic development north of the 50th parallel should be shared with the native people. To send them over there to cut, they would have starved to death. We discussed at the last meeting I attended in March 1985 that the natives should have some wood closer to their reserve to survive. This went on and I discussed that with them.

The access road for tourism: Again, we discussed those roads that were closed by the government because it had no money. I said, "There is money in the north road," as they call that orphan road. There is the cottaging and the Brunswick Lake situation, which is a big problem over there with all those FMA roads in Spruce Falls. I wanted to be sure this trouble we have between Hearst and Kapuskasing will not come back in the Hearst area.

Mr. O'Connor: I understand what you are saying, that you were concerned about the FMA and getting it signed.

Mr. Fontaine: Not about the FMA, about Mr. Levesque. That is it. The rest was all negotiated, if you look back in the notes over here, at that time.

Mr. O'Connor: About whether Mr. Levesque would be part of the FMA.

Mr. Fontaine: Yes. That was my only worry, because I wanted--I personally still feel the three have got to be together.

Mr. O'Connor: To which of the meetings did you bring along your United Sawmill manager? Was that the May 12 meeting?

Mr. Fontaine: April 27.

Mr. O'Connor: What is his name?

Mr. Fontaine: Michel Duval.

Mr. O'Connor: You brought him to a meeting with Mr. Therriault. Is that correct?

Mr. Fontaine: Yes.

Mr. O'Connor: As the memo indicates, you discussed the same problem you have just told us about, whether Levesque would be involved and whether it would be five years or two years. You were favouring two years. Is that right?

Mr. Fontaine: Yes, two years or less, if we could. To answer this question, you have to see what happened. First of all, as you know, there was a letter. Mr. Cloutier phoned me on the Friday in Thunder Bay and told me the negotiation between Levesque and the other group did not go too well. There was a big argument or discussion between one of the managers, Mr. Viel--he had worked for Levesque for 15 years, and he was--at one time, I do not know what happened, we all dropped him and I guess he had this on him. They went very hard at each other. Apparently, Mr. Levesque did not say too much.

Roly told me that he offered him five years, and I felt it was not fair and neither did he as the manager. I said, "I am in Thunder Bay, but I will be back in Hearst late on Saturday." On the Sunday, I went to see Viel after church in the afternoon and I told him: "The FMA is not only for Levesque or Lecours or United; it is for everybody. You cannot let your personal grudge interfere in that. Otherwise, nobody will take you seriously and you are going to do harm to everybody. Maybe we should look at two years."

At first he was reluctant but finally, after I talked to him, he said okay. That is the point at which we called Duval to come to Viel. Then United--the way it looked Duval had not too much trouble with the two years. I phoned Mr. Therriault to say we wanted to meet with him. We were supposed to leave at two o'clock, but Mr. Viel had an engagement at five or 4:30 with his fiancée to meet his children--he was a widower and she was a widow--so he said, "Duval, you go." It was late in the afternoon.

We went to (inaudible) as a witness and to show Mr. Therriault that the Hearst group had changed its mind about the five years. We went there and the problems listed here were discussed--the lack of trust between certain people and the negotiation having come too far. United and Lecours were doing some internal negotiations and we had some discussion at that point about Lecours and United. I was told they had certain things to settle between themselves. Viel wanted at least a few months to see whether the two could work together before putting a third one in. Then "Roly Cloutier to register his concern"--that was Mr. Therriault. He said, "I want Mr. Cloutier to write a letter in the name of the company about the two years."

Then there was concern about the third-party licence for Levesque. I was concerned, as I told you, about what happened after two or three years to the third party if the other parties said, "We are going to move in that swamp over here." That is what happened to lots of companies with the pulp and

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things about the problems between two parties--the five years and what happened between Viel and Réal Levesque.

Mr. O'Connor: I know what you were discussing and I know you were--

Mr. Fontaine: There was no influence about the rest. I never interfered about the other area you were talking about, the contracts, the negotiation for the amount of money. I did it as the MPP because this thing had to come to an end, one way or the other, because people in Hearst, not only the companies but also other people, were waiting for results on this because some of them had bought some things to build roads and the roads were not happening. On the tree planters, if local people were doing the tree planting or the companies, we would have to import a contractor from British Columbia. We hired people from the outside. All this was getting to a point that I interfered to get the two together.

Mr. O'Connor: Let me just say this. Here we are in 1986. This is several months after you have made a statement in the House whereby you have been questioned about the impropriety of pushing for an FMA while holding an interest in the company that is pushing for it. You have indicated to the House on January 30 that you put your shares in a blind trust and that you will have nothing more to do with the situation, and there you are. It is not the case that you may have been in 1985 when you say you were not advised by anybody, when nobody sat down with you and when nobody that knew showed you how to do it.

You are well aware of the fact that this may well be a conflict of interest or at least an appearance of one. You are carrying on in four separate meetings with a senior civil servant after all of this has been brought to your attention. Can you not see that this is clearly and unequivocally a conflict of interest? You, with an interest in this company and a significant financial interest in it, were meeting at his home with a senior civil servant urging him to get on with the FMA. Do you not see anything wrong with that?

Mr. Fontaine: I told you in my statement today that the appearance is there, but at that time I went there to put the two sides together. It had nothing to do with the rest. Everything was accepted. It was to put Levesque and the two together, just things that can work, and to follow what was told to us about a year before, that a forest management agreement is for everybody and that we cannot isolate one too long; otherwise it will not work.

Mr. O'Connor: How was Bill Therriault to sort out all this, the fact that you were telling this? Put yourself in his position. Here is one of his political masters, a cabinet minister, coming along and attempting to be involved in the negotiations on the conclusion of this matter. He lives in Hearst. He knows you. He knows you are the minister. What is he to think? Of course, he is going to have to be influenced by your presence and your words.

Mr. Fontaine: There was nothing there to be influenced. I am the one who started talking about two years. He was still thinking of five years. I said, "Why do we not think about something else?" Viel had told me to tell Mr. Therriault and I told it to him too: "He is the guy in charge of negotiating. Why do you not put his position and say, 'Here are two years or a year and a half we will follow? I put five years because I felt it this way.'" Then I told that to Mr. Therriault too.

Mr. Martel: When Mr. Cloutier was here, he indicated to us that when

the Ministry of Natural Resources started to talk to him, he knew--at least he felt--that if you did not get an agreement among the three parties, the FMA was dead. I think that is what he said. I do not want to put words in anyone's mouth. From my memory, it is my recollection that he felt that way without an agreement. While you are not involved in all the stuff that had been arranged with previous ministers of the crown under the old government, you are directly involved with the ultimate decision, and that for me is difficult to understand.

You are not negotiating any of the terms, except that Cloutier made it abundantly clear that he phoned you because he felt MNR would not proceed with the FMA unless there could be an agreement. The position that he put you in, or that perhaps MNR put you in, was that you were, in fact, saving the FMA from collapsing. Do you think that is a correct assessment of the situation?

Mr. Fontaine: That is what Mr. Cloutier had in mind, but when you read it, Mr. Therriault figured that he wanted to give it another try with the three parties. What I think I really meant at that point was that when there are three of you together and one dissents like that, you try to bring him in. If you say, "You do not come in," and you give him, that third party, the title of manager of the forest management agreement, it will be trouble all the time to try to say, "Levesque will be there every time." If you have dealt with a third party--I am sure you have dealt with that in your area--it is a hell of a job.

Mr. Martel: I understand that, but the difficulty for me, René, is that without your involvement at that stage, the FMA goes to hell. That is what Cloutier basically told us.

Mr. Fontaine: That is what he felt.

Mr. Martel: That is why he phoned you. I said to him, "Do you realize what you did?" So you become, not in the breakdown of the agreement, but you become the catalyst to bring the warring parties together, if I can use that term, to get the agreement; not the terms, but to make it work. Otherwise, it goes to hell.

Mr. Fontaine: That is what he told me and I felt the same way. Then I went to see Viel, the guy who was the one who was owning everything--not owning everything, but the one who said the five years and then they said that if Viel changed his mind, probably it would work. That is when I went to work on Viel and then the rest.

16:10

Mr. Martel: That is the point that makes it difficult for me, because you are then directly the catalyst who either makes it go or does not, and that is where the conflict appears.

Another thing worries me. I am going to be honest again and I remind you of what you said when I asked the other question earlier on Golden Tiger. You said you did not bother getting rid of the shares of Golden Tiger, even though Mary Eberts suggested you should, because there were only two lines in the letter and it was not that relevant. The FMA, you said, was dealt with at some length. When you prepared your statement for us the first time, the FMA is not even mentioned in your statement.

Again, do you see the perception? You told me a while ago that with

Golden Tiger, because there were only two lines in Mary Eberts's letter, it was not all that important maybe to get rid of them right away or to respond to it immediately. I worried about what the perception of not presenting that evidence to us was.

What is even more difficult for me is that although, according to your own words, much of the letter dealt with the FMA, you do not even mention it to us. Can you see the perception? The question that comes to my mind then is, was he trying to not tell us he had four meetings? Was he trying to keep that away from us? Why would the FMA, because it had been raised in Brandt's statement, not make up part of your statement on the first day?

Mr. Fontaine: Floyd asked me that and I said I did not come prepared for that. Then he asked the reason, and I said there was another committee that was studying it.

At that time, probably we should have had a break over here and then gone home for another day or a day and a half and do it, as I did with the other one. Nobody asked me. The chairman said, "We will take a break." When you are here like that without being prepared, you do not think about everything after eight hours or two days.

Mr. Martel: The thing for me, and I am trying to be fair, is that when I look at it, there is not even a comment on it. It had been raised in the House and it had been raised by Brandt the day before. Your statement was pretty carefully prepared, but it does not even make reference to it, unless I missed it. I see your friend is looking for it.

Mr. Pratte: Give me time.

Mr. Martel: I cannot recall it, and that is what worried me afterwards. It was not even mentioned, and yet probably the biggest involvement of this whole issue is the FMA agreement.

I realize the value for Hearst. I do not diminish the necessity. It is difficult for us. You have to weigh both of them, but it was not even mentioned to my recollection. I ask myself the question, has it deliberately been left out?

Mr. Fontaine: That day I told you I did not come prepared for the FMA. We went on in the discussion. I told that over here because--

Mr. Pratte: Mr. Chairman, may I have a very special permission that might assist? It will be two lines--

Mr. Chairman: I will leave it up to the committee.

Mr. Pratte: --and answer Mr. Martel.

Mr. Chairman: Do I see heads nodding on all three sides? I want to make sure I do not lose the consensus here. The record will show that heads nodded from all three parties.

Mr. Pratte, two sentences.

Mr. Pratte: It was not in there, because I did not think it was important. It is my fault. I would have done it differently. I just did not think the FMA was the issue. Maybe I was too tired, but that is the reason.



Mr. Sterling: May I ask a supplementary on that particular one? When I asked you a question about your involvement in the company, you reiterated that you had had no involvement with Hearst or United Sawmill after those meetings. Why would you say that in your testimony to me July 24, after you had the meeting?

Mr. Fontaine: Where--

Mr. Martel: Do you have a copy of that statement prepared for us? Near the back.

Mr. Sterling: I was asking you about your involvement on July 24 with your company and you said, "I had been advised to stay away from my companies and I did. Then, later on, I put everything, United Sawmill, in a blind trust." I believe there was a sentence between that, and then you said that was it. You motioned with your hand, I can recall.

Why did you not at that time say, "I had some meetings with the regional manager about Hearst Forest Management"?

Mr. Fontaine: It did not come to my mind at that time. When you asked me that question--I am talking about that day--I was only thinking about the real negotiating of the FMA. The financial side was what I had in my mind. I am sorry, but that is the way it happened.

Mr. Chairman: Mr. Warner, did you have a short question?

Mr. Warner: I have one question and I hope it will be short. Mr. Pratte does not think the FMA was particularly important. He did not mention it. Mr. Fontaine says it was not all that important, otherwise he would have included it in his statement before the committee; he was not prepared for it. At the same time, he says the agreement was very important to Hearst and the area and that is why he attended all the meetings.

I have a problem sorting out when something is important and when it is not important. In the House you tell us you are not going to have any involvement with the business, with the company, with the agreement. There is then a series of four meetings which not only do you attend but also your manager in charge of United Sawmill attends. You go to the meeting with Mr. Therriault, district manager, as the MPP, although you do not specifically state to Mr. Therriault that you are going as the member of the Legislature, as if that somehow absolves you of a conflict, which frankly it does not, because you have a financial interest in a company which you hope will be part of the forest management agreement. It does not matter whether you are an MPP or a cabinet minister.

After you go through that chronology of four important meetings to obtain an agreement, which we all understand is important for Hearst and the area--important for jobs, important for the economic viability of that community--at the same time your manager attends meetings and you have a financial interest in the company. Can you sit here today and tell me that is not a conflict of interest?

Mr. Fontaine: About my manager, I think I told the committee there was a reason why he was there. I have to start over again. We met at Viel's place to try to convince Viel to change his position on the five years and to put some water in the wine--de l'eau dans son vin--to take his personal grudge away, because we cannot have an FMA without having everybody trying to work

together. Viel decided he had changed his mind on the five years and all that. He said, "I am prepared to forget." It was hard for him.

Then I called Mr. Duval to be sure that United would be on the same wavelength. We were supposed to leave together, the three together, to see Mr. Therriault. The reason they were coming to me was to be sure Mr. Therriault would understand that the two had changed their minds since the previous meeting. Mr. Viel could not come; so Mr. Duval came. He did not say a word, just listening, and nobody asked him a question. But when we discussed the two, I told Mr. Therriault that United and Lecours agreed to change their way of doing things.

I did it to try to put those two sides together. If you believe I did it for a different thing, that I cannot undo.

16:20

Mr. Warner: Should you have been involved, when you look back on it now, knowing what has happened?

Mr. Fontaine: I said that in the statement. I said, because--

Mr. Warner: I am sorry; I did not hear the answer. You should not have been?

Mr. Fontaine: No. If I look back now--I told you in that statement what I meant, but that is the way I have dealt all my life. It is not because I am an MPP. It is too bad. Now I know all this. But in my whole life at home and in my area, in business, in politics or in union negotiating, I never have a lawyer with me. I used to go directly in the president's office or direct to the steward's house. That is the way. In politics, in my business, that is the way I dealt, and I did the same thing that time.

Mr. Warner: I can understand that.

Mr. Fontaine: And then it is wrong.

Mr. Warner: René, I understand that, and you say now that you realize you should not have done that. But can you now appreciate why people look at it and say there is a conflict of interest?

Mr. Fontaine: It looks bad.

Mr. Warner: Can you understand that now?

Mr. Fontaine: Yes.

Mr. Warner: That is why I think the conclusion is so inescapable. Regardless of whether there was personal financial gain, there was in fact a conflict of interest that you had placed yourself in.

Mr. Fontaine: I do not know at that point.

Mr. Warner: Inadvertently or otherwise, you were there.

Mr. Callahan: Mr. Fontaine, in the meeting that is listed of January 21 there was a rather lengthy agenda attached to it. Did you have anything to do with the preparation of that agenda?

Mr. Fontaine: No.

Mr. Callahan: Did you have anything to do with the contents of that agenda?

Mr. Fontaine: No.

Mr. Callahan: That agenda was prepared by Mr. Therriault, was it, as far as you know?

Mr. Fontaine: I do not know who prepared this agenda.

Mr. Callahan: All right. When you arrived there, was that agenda available for you?

Mr. Fontaine: Yes.

Mr. Martel: It was prepared by Riley.

Mr. Callahan: Pardon?

Mr. Martel: It was prepared at the request of Mr. Riley.

Mr. Callahan: All right. In view of the fact that you were the minister for that area, was there anybody else--

Mr. Fontaine: No, but I am the MPP.

Mr. Callahan: The MPP. But in view of that, was there anybody else they could have contacted, if they had this problem, to get it resolved? Who else could they have contacted besides you?

Mr. Fontaine: What you see over here, it was an accumulation, a little bit of problem that occurred probably before I was MPP in that area and after, when I was in my office. I have three constituency offices, and those problems kept creeping up. Up until today, I do not know how come they put the FMA over there. If we discussed that and they say Fontaine is behind that 100 per cent, I guess I said I was behind the idea, but I do not recall that we discussed everything there.

My recollection of the FMA discussion was the involvement of the roads in all this that was hurting some problem areas we have had over here. I will give examples: Guilfoyle and the 50th parallel--that was the discussion about some development on the 50th parallel. Abitibi and Red Pine--that was some problem in the Cochrane area with FMA roads. Normick wood supply--we discussed the fact that Normick should have an FMA too.

Mr. Callahan: The long and short of what I am asking, I guess, is that you are the MPP for the area, you do constituency work there, do you not?

Mr. Fontaine: Yes.

Mr. Callahan: You go to your constituency office, people call you up with problems and you try to respond to them.

Mr. Fontaine: Yes.

Mr. Callahan: And if you did not respond to them, who would respond to them?



Mr. Fontaine: I guess some assistant.

Mr. Callahan: You were mayor in that area for some considerable period of time, were you not?

Mr. Fontaine: For 13 years.

Mr. Callahan: People came to you with problems during that period of time. Is that right?

Mr. Fontaine: All the time, yes.

Mr. Warner: Callahan, he was not born yesterday.

Mr. Callahan: Mr. Warner, you make some delightful statements. I am trying to put it in perspective.

As mayor, did you solve many of the problems yourself?

Mr. Fontaine: I just told that to Mr. Warner. Most of the time I did it directly myself.

Mr. Callahan: On the occasions of these meetings, you have indicated you were resolving them as the MPP. Is that your statement under oath?

Mr. Fontaine: My feeling, yes.

Mr. Callahan: At no time were you resolving them as minister?

Mr. Fontaine: No.

Mr. Callahan: Much has been said about the statement you made in the House. There seems to be an interpretation that is put on it by other members of the committee. When you were referring to no participation and any discussions of the business, were you talking about that in terms of a commercial nature?

Mr. Fontaine: Yes.

Mr. Callahan: When you were meeting on these occasions with Mr. Therriault, did you consider that you were meeting in any commercial sense? How did you view it?

Mr. Fontaine: I was meeting to discuss a problem and to try to get some parties together or to discuss other problems. I never discussed the other area of the forest management agreement.

Mr. Callahan: Those are my questions, Mr. Chairman.

Mr. Fontaine: As I said here, I do not even know where they are going.

Mr. O'Connor: I have one brief question. You have indicated that you left the meeting of August 27, 1985, when the question of the FMA came up, because you felt it was wrong to stay. Is that right?

Mr. Fontaine: Yes, I left that.

Mr. O'Connor: Because there would have been a conflict.

Mr. Fontaine: Yes.

Mr. O'Connor: Why then did you not do the same thing with the meetings the next year?

Mr. Fontaine: Because with the meeting next year, there was nothing involved in all that you see there, the roads. For myself, when you talk about business, it is not that you put two parties together; that is not a business for me. A business for me is when they give you 10 or 15 townships and say, "Here is a road and here is the money." I never discussed that--never. I do not even know how much they are going to get. I could have looked today. I am a free man; I was there and I could have looked. I do not even know how much money I made with my own company this year. I did not look.

Mr. O'Connor: The meeting of 1985 was a general discussion on the FMA. It did not deal with the particulars or the details.

Mr. Fontaine: Which meeting are you talking about?

Mr. O'Connor: The August 27 meeting.

Mr. Fontaine: I do not know. I was not there. I left.

Mr. O'Connor: That is my point. You knew enough to leave that meeting because it was improper for you to be there; yet you attended four meetings in Hearst.

Mr. Fontaine: There were not four meetings. It was not the same negotiating at all. It had nothing to do with the core, the heart of the agreement. It had to do with a problem between the parties. That is all, all the time. When I say 100 per cent, it was maybe the discussion that Levesque was going in; I do not know.

Mr. Chairman: Are there any further questions of the committee? If not, we thank you very much for coming. Again, I apologize that we did not have translation services. It is my fault. Mea culpa. Thank you very much for attending this afternoon.

Members of the committee, I want to remind you that the House leaders have given us agreement to sit Monday, Tuesday and Wednesday. We will most likely meet in room 228.

You asked for a legal opinion from Blenus Wright. We now have it and, before you go, we will circulate it to you.

If there is no further business, we are adjourned until 10 o'clock Monday morning in room 228.

The committee adjourned at 4:28 p.m.





STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

MONDAY, SEPTEMBER 22, 1986

Morning Sitting



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

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VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

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Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

Callahan, R. V. (Brampton L) for Mr. Bossy

Hart, C. E. (York East L) for Mr. Mancini

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

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Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Monday, September 22, 1986

The committee met at 10:16 a.m. in room 228.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: We will get started. Before we do, there are two additional documents. You got the legal opinion from Blenus Wright as you left on Friday. You have two other documents on your desks this morning. The additions to the draft report are now with you. You asked for some consideration of the conflict-of-interest guidelines relating to Mr. Fontaine. Merike has prepared that for your information this morning as well. You have those two documents.

Perhaps we could start with the additions to the draft report and go through that. You indicated the other day you wanted simply to have the second written opinion by Blenus Wright and that you would include that in the report as well. Is that right? We would have the two legal opinions attached.

Perhaps we could begin with the draft report. Are there any comments or suggestions on it? It is essentially the excerpts from Hansard. The first addition would be--it is at the top of page 1 and would be added to page 16--the prices at which the shares were bought. Any comments on that? Okay. That would be included as is. The second one would also be added to page 16 after the words, "This was the first time he had received this advice." We would now be including some excerpts from Hansard of comments between Mr. O'Connor and Mr. Martin.

Ms. Madisso: It does not make sense here, in the section I did. The first quote is not the one I was asked to do. I clipped out the wrong one.

The quote on page 9 was supposed to be Mr. O'Connor asking, "Did you discuss with him the problem he subsequently got into?" whereas I gave the one farther down the page. Mr. O'Connor, am I right?

Mr. O'Connor: I am not following you. Is it on page 1?

Ms. Madisso: Page 1, the second section to be added to page 16, that first reference, the page 9 reference.

Mr. Chairman: Maybe we could just set that aside for a moment and at your leisure, Mr. O'Connor, you and Merike can take a look at it and sort it out.

Ms. Madisso: I think that is wrong. I clipped the wrong one, I think.

Mr. O'Connor: I think it is. It is wrong.

Mr. Chairman: Okay. We will include the first paragraph. We will set aside the second one, as we seem to be in some disagreement over exactly which quotes you wanted.



The next one is on page 3. These are the additional parts dealing with Mr. Therriault and Mr. Cloutier. Would you read through that quickly and see if we have agreement on that?

Mr. O'Connor: I have read it quickly. There is one point that comes to my mind. It is the last sentence in paragraph 2, "Mr. Cloutier indicated that he did not discuss the terms and conditions of the FMA with Mr. Fontaine."

As I understood his evidence--we would have to check through the transcript--they did discuss the inclusion of Levesque and whether it should be two years or five years. However, on the question of whether or not Levesque would be included, surely that is a discussion of the terms and conditions of the FMA. Is not the inclusion of Levesque in the FMA a term or condition of it? I wonder if that is correct.

Mr. Chairman: To go through the text. it reads:

"The committee also heard testimony from Mr. Cloutier, the manager of Hearst Forest Management Inc. Mr. Cloutier stated to the committee on September 11, 1986, that on April 22, 1986, he called Mr. Fontaine to explain the difficulties of including Mr. Levesque in the FMA at that point and the options that were available with regard to the matter.

It might serve the purpose to delete the last sentence and let it stand as is. Is that an agreeable way to proceed?

Mr. O'Connor: I agree with that.

Mr. Chairman: You had better start shaking your head up or down or sideways to give me some indication whether you agree with the deletion of that last sentence. Yes or no?

Mr. Callahan: I wanted to take a look at it for a second, Mr. Chairman.

Mr. Martel: May I say something? I asked Mr. Cloutier about the FMA, and I am not talking about the terms that had been agreed to previously. I do not think Fontaine was involved in those. However, the biggest term of all was whether you could get all three companies in. Whether one wants to admit that or not, time will tell. If you did not have the three in, according to Cloutier, then you did not have an FMA. That is why he phoned Fontaine. He set Fontaine up, as sure as I sit here. So did MNR, in my opinion, by having any meetings with Fontaine that they themselves originated and they did in January. I think MNR has some answering to do.

The biggest term of all in the whole thing was that if you did not get the three companies in, you did not have an FMA. You talk about terms of an FMA, the nitty-gritty aside. If the three are not in, there is no FMA. I think MNR and Cloutier helped set up the minister. I do not forgive the minister; he should have said, "Get the hell out of here." He chose not to and then he went on to discuss it to get it finalized and to get all three partners on the same wavelength.

Mr. Warner: And the length.

Mr. Martel: And the length. Therefore, I do not think you can drop it completely. You might agree that he did not talk about the terms as laid

down by MNR at the outset, but certainly the term which made the whole FMA come together was whether all three partners would be in and the length of time. That is the most important term of all; otherwise, you do not have an FMA.

Mr. Chairman: To be fair about it, the second sentence deals directly with the matter Mr. Cloutier said he discussed: whether or not Mr. Levesque would be included in the FMA. The final sentence in that paragraph paraphrases Mr. Cloutier. It seems to me that it is offering an opinion of sorts. You could delete it without really damaging or changing the context very much. If you are in agreement, we will drop the last sentence. If there is some argument about it, let me hear it now.

Mr. Callahan: The final paragraph somewhat broadens that; so I do not see it one way or the other, really.

Mr. O'Connor: I have problems with that whole final paragraph too, obviously, in the light of what--

Mr. Chairman: All right. Let me deal with this final sentence. Do we have agreement to drop the last sentence in paragraph 2? All three sides agree. We will delete the last sentence.

The final paragraph, Mr. O'Connor.

Mr. O'Connor: Using the same rationale, any discussion revolving around the inclusion of Levesque or not, and agreeing with Mr. Martel on that point, that is a major term or condition of the agreement. Certainly, the number of parties and who they are is a primary condition or term of the agreement. We agreed we should not say it in the previous paragraph. To say again in another way in this last paragraph that, with respect to the January 21 meeting, etc., Mr. Fontaine stated that the discussion did not deal with the details of the forest management agreement, nor was there any discussion of the business affairs of United Sawmill and Hearst Forest Management, I think is incorrect, because one of the details, the primary detail, is the numbers of partners and who they are.

Mr. Chairman: Let me stop you there. Are you saying Mr. Fontaine did not say that?

Mr. O'Connor: Mr. Fontaine said that, yes.

Mr. Chairman: That is right. That is what it says. You are disagreeing--

Mr. O'Connor: All right. I am sorry.

Mr. Chairman: --about how accurate that is. I think the intent here was to try to get into a paragraph the gist of what Mr. Fontaine said when he appeared before the committee on Friday. It seems to me that this paragraph is a reasonably accurate portrayal of his statement. It is not meant to argue the point, but the choice is that we either use a paragraph like this to detail what Mr. Fontaine's position was and what he said on Friday or else we quote the Hansard.

Mr. O'Connor: Yes. We are diverging slightly, I think, from our intent in this document if we do that, the intent being to settle on a set of uncontroverted facts of events.

Mr. Chairman: Yes.

Mr. O'Connor: This diverges slightly from that intent by stating what one witness said the facts were rather than what we find were actually the facts.

Mr. Chairman: But it is a fact that this is what Mr. Fontaine said.

Mr. O'Connor: Sure, it is a fact that this is what he said, but it is not in my mind a correct statement of what occurred at that meeting.

Mr. Chairman: It does not purport to be that.

Mr. O'Connor: I know, but was the purpose of this document not to report only events that occurred rather than people's versions of them, which would be only one side of the issue?

Mr. Chairman: The alternative I would see is to quote the Hansard.

Mr. Treleaven: No. You are missing the point.

Mr. Sterling: Once you make a statement like that, or that Mr. Fontaine stated such and such, it is definitely my opinion, after hearing the evidence of Mr. Fontaine and of Mr. Cloutier and everything else I know about the FMA, that Mr. Cloutier, Mr. Fontaine and Mr. Therriault all discussed a very important term of the forest management agreement.

Mr. Martel: That is the last sentence.

Mr. Sterling: Which sentence are you referring to?

Mr. Martel: The very last sentence.

Mr. Chairman: We are reading this a little differently. Let us go through it then and see whether we can sort it out and arrive at some--

Mr. Martel: It says he dealt only with Levesque's participation.

Mr. Chairman: This section of the report is to establish that the meetings did occur. This section of the report is to try, without going into extensive quotations from the Hansards of the day, to provide a summary of what each party thought occurred at those meetings. We have established that Mr. Cloutier did call on Mr. Fontaine and tried to do that. In the final paragraph we are attempting to summarize Mr. Fontaine's version of what occurred. We are acknowledging that the meetings occurred, which I think is necessary. We are trying to paraphrase Mr. Fontaine's statement about what was the nature of the discussions during the course of those meetings.

If you could assist me by rewording it, that would be helpful. I really do not want to quote a lot of Hansard in here. I would like this report not to be exact wording.

Mr. Callahan: Is that the right date, September 11?

Mr. Sterling: No.

Mr. Eichmanis: September 21.



Mr. Callahan: Yes, September 21.

Interjection: Today is September 22.

Mr. Callahan: September 19.

Mr. Martel: If one looks at that last paragraph, it reflects pretty well what happened. The key is in the last sentence. I happen to believe that Mr. Fontaine did not discuss the rest of the terms, the nitty-gritty, the package that makes up where you cut a road, how much you get per road, what acreage you have and so on. That did not change from the time Pope or Harris was minister. The real problem was who is in and who is out. That is in the last sentence.

10:30

Mr. Warner: And that is what he discussed.

Mr. Martel: He concedes in the last sentence that he met to discuss Levesque's participation in the FMA. That is the confession.

Mr. Sterling: Do you not agree that it is necessary for the committee to state unequivocally that was a key term of the FMA?

Mr. Martel: Sure, but I am not sure this is the place.

Mr. Sterling: We are making a finding of fact somewhere along the line.

Mr. Martel: No. We have argued the point 27 times now.

Mr. Chairman: The fact we are trying to establish here--

Mr. Martel: It is a straight fact.

Mr. Chairman: --is that (a) the meeting occurred and (b) what Mr. Fontaine said was discussed at that meeting. It is Fontaine's statement that is at argument here. I truly do not see the point.

Mr. Martel: This whole section deals factually. If we are going to make arguments on who went wrong and who went amok or if anybody went wrong or went amok, it will be in another section. We discussed that way back--

Mr. Sterling: No.

Mr. Martel: Yes.

Mr. Sterling: Somewhere along the line Merike tried to quote it with a judgement. One of the things a judge does when he comes down and makes his judgement, he says, "I find the facts were this, this, this and this."

Mr. Martel: We are not making a judgement yet.

Mr. Sterling: "Therefore, when I apply the law to this, I find it a conflict as in this situation."

Mr. Martel: That is fine. We are going to do that eventually, but right now it is just a fact sheet that we are talking about.

Mr. Sterling: But you have to make some decisions.

Mr. Martel: We will make decisions.

Mr. Chairman: Do you want us not to report what Mr. Fontaine's statement was?

Mr. Sterling: No.

Mr. Martel: We are going to make the decisions. Once we get through what the facts are, then we will start to put it together. We went through this last week, you will recall, much earlier than the stuff prepared by Merike, when I wanted to get in the fact that Fontaine did not mention the FMA anywhere in his original statement.

I wanted to get that in the fact section, and we decided we could not do it because it was an observation we were making. We are also making an observation as to whether Fontaine should have or should not have, and we will have to do that in a section. The first section we decided last week would be the facts as they are. The decisions on what we want or the interpretations we put on those will come after discussions.

Mr. Sterling: Yes. My problem then may be with the heading. As far as I am concerned, this is not an accurate reflection of Mr. Fontaine's involvement with the FMA for Hearst.

Mr. Chairman: It is not meant to be that.

Mr. Sterling: It is his testimony--

Mr. Chairman: That is right.

Mr. Sterling: --and the testimony of witnesses.

Mr. Chairman: Yes.

Mr. Warner: It is an accurate reflection of what Mr. Fontaine said.

Mr. Chairman: Yes.

Mr. Treleaven: We are just reproducing Hansard in a more orderly form.

Ms. Hart: If we were to accept what Mr. Sterling says about how we deal with this paragraph, I for one would have to go back through the whole report and look again at everything we decided, because I understood from the beginning that we were not making our judgements at this stage about what facts we accepted and what we did not.

Mr. Chairman: Yes.

Ms. Hart: Eventually, we will get to that, but throughout we have said so-and-so testified or it was so-and-so's view. We were just trying to reflect what we had heard from the witnesses. To depart from that now is to change the whole tenor of the first section of the report.

Mr. O'Connor: I was going to suggest at first that we put the debates of the three other meetings, but I see they are included in the top paragraph. What about the meeting of August 27 on the James River-Marathon aspect of the deal? Should that not be included if we are listing meetings and who all attended?

Mr. Chairman: Do you want to include that meeting as well?

Mr. O'Connor: Yes, August 27, 1985, with a one-sentence clarification of what Mr. Fontaine said happened there. We can do that in the spirit of that paragraph.

Mr. Chairman: We will include that meeting too in our corrections to this final paragraph.

Mr. O'Connor: That is fine.

Mr. Chairman: Okay. With that, we have pretty much concluded the drafting of the part of the report that attempts to document what happened, who said what, when meetings occurred and that. Is there any other information we do not yet have?

Ms. Madisso: We do not have the dates for the licences cleared up yet. There is a contradiction between two documents. I still have to phone and get answers.

Mr. Chairman: Okay. The item that is left is the dates of the issuance of the cutting licences; we still have some disagreement on that. Aside from that, it is pretty much the drafting of the statement of the consensus, and we now can proceed to clean that up. There is the quotation that has to be rectified.

Ms. Madisso: Yes.

Mr. Chairman: There is a date that has to be corrected, and the dates of the licences have to be put in. That is pretty much it for that part of it.

The next document we might look at is dated September 22. Merike Madisso essentially has drafted a set of issues for consideration concerning Mr. Fontaine and the conflict-of-interest guidelines. Mr. Martel had asked for this. Essentially, it goes through what is a breach and where the conflicts might have occurred. Are there any questions or comments about this? I am not sure you want to include this in the report, other than it may be useful to make reference to it as you go through your deliberations.

Mr. Martel: Perhaps we can have a few minutes to look at it, Mr. Chairman.

Mr. Chairman: By my quick review of it, it would be useful in terms of reference material as you debate motions. It simply lines up holdings he had in various corporations where there might have been conflicts. You have to kind of put that in--you are really getting rather judgemental at this stage in using the document.

Are we ready to proceed to motions?



Mr. Martel: Can we have a few minutes to look at this document, Mr. Chairman? With your indulgence, I would like to see what is in it before I start to talk about motions.

Mr. Chairman: Okay.

Mr. Martel: I do not care where we break. I would like to have five or 10 minutes to look at it. It might be helpful to all of us.

Mr. Chairman: Perhaps we can shut down Hansard for about 10 minutes while the members go through it.

The committee recessed at 10:37 a.m.

10:45

Mr. Chairman: We are back on the record. Let me begin by saying that in my view the next stage of this would be for us to try to provide you with an updated draft of the report. When we have it in our hands, I hope some time this afternoon, we will deal with it a little more formally. I will ask you to adopt it, amend it, reject it or whatever, so we will have a final copy to work with.

We have two items to deal with. We may not get through them this morning, but we can begin by having Merike go through her outline of the issues for your consideration. You may want to add to it. Then we will be in a position to deal with Mr. Warner's motion. At that time, amendments on word changes could be proposed; you may want to add other matters to it.

It would be helpful if you would use the following process. If you have an amendment or a motion you wish to put, file it with the clerk and allow us enough time to give everyone copies of it. Aside from wording changes of a minor nature, it would be helpful if we could have some notice. I anticipate that you will want to consider a matter before bringing it to a vote.

We can go through it in two stages. One, to assist us in drafting the report, we could be a little casual about motions, amendments and things of that nature. But, two, we will get to a point where I want final, formal motions put and votes taken. We can proceed in that manner. We can start by having Merike go through the document she has prepared; it is essentially background on the consideration of motions.

Mr. Sterling: That is fine. I know there will be some amendments to the last draft report, which is F-291/86-87. I still want to ask you about including one particular part in that. In my view, we have the start of the report under the table of contents. We have part I, opening statements; we have part II, Mr. Fontaine's assets. Is there going to be part III, part IV and part V?

Mr. Chairman: There can be, if you want.

Mr. Sterling: For instance, I would like to know where this committee deals with the finding of fact on which we base our conclusions. Is that going to be part III, and then part IV will be the conclusions Mr. Warner has brought forward? If I had the structure to work around, I would know--

Mr. Chairman: That is likely the way it will come up.

Mr. Sterling: Is that agreeable to everybody? We would deal with part III, which would be the finding of fact, and part IV would be the conclusions or recommendations.

Mr. Warner: That is fine. It might be helpful in part III, which is the finding of fact, to subdivide it into what appear to be the two major areas: Golden Tiger and the forest management agreements. When we subdivide it, that may be the place to add the material Merike has provided this morning, i.e., the issues for consideration where she has identified not only the corporation but also the specific issue and linked it to the guidelines. That would make sense to me.

The factual material, the issues that are raised, the testimony we heard and the conclusion that is drawn from that testimony are all within part III but subdivided into two sections. Those are the two major areas of concern. Finally, we have your conclusion, which I take it is a motion of the committee. Does that make sense, Norm?

Mr. Sterling: That is what I would think. I am hearing a little concern expressed.

Mr. Warner: We will work our way through it.

10:50

Mr. O'Connor: Perhaps it is a bit too semantic, but it seems to me that part I, which Merike and John have already done and which will be supplemented today, is what we will call our finding of fact. Part II would be our subjective interpretations of those facts, what we find as a result of those basic facts to have been the breaches of the guidelines on behalf of Mr. Fontaine. Then part III would be a motion similar to David's--I guess a summary of our findings and recommendations.

Mr. Chairman: It really does not matter how you lay it out. The first thing is a rough statement of what we heard in terms of testimony, which is what we have done in our first drafts; that is what we heard happened. Second, we would have to outline areas--and you may want to use the format somewhat similar to what Merike has done here--or lay out where there might be conflicts. Finally, in our conclusions, we need a statement of where we think there were or were not conflicts. It would follow that kind of sequence, however whatever number of parts you want to call them.

Mr. Callahan: If you are going to do what was suggested by Mr. O'Connor and include additional facts as interpreted by various members of this committee, because it is an unusual process in that it is going to be voted on--and of course I suppose the vote that carries will be the interpretation that you put on the facts--then perhaps at that point we could allow a dissent to be recorded as well. Otherwise it will mean that those who dissent are going to have to do a supplementary, which I do not think would make sense. If we can do it that way, I am in agreement with it.

Mr. Chairman: We would always provide an opportunity for someone or some group of members who disagreed with the main findings or some portion thereof to provide a dissenting opinion. We can do that. I am simply trying to facilitate our getting to that stage. In fact, I would anticipate that if you disagree with the majority finding of the committee the obligation in this instance is rather strong on you to delineate rather carefully where you disagree, as I do think this is a rather important matter and some thought should go into that. Okay, Merike, do you want to take us through this?

Ms. Madisso: What I did was to take the two main assets that have been under discussion, namely, United Sawmill as representative of private corporations and Golden Tiger as representative of public corporations. As you know, the guidelines break down into those two groups; public and private corporations under the guidelines are dealt with differently, so in each case you need to know whether the asset is a public or private corporation. A different part of the guideline will refer to that particular type of corporation.

I did not do the same kind of breakdown with the more minor assets, because they are already in your draft report; you can go back to them. Once you see the analysis, you can apply that to any of the other assets.

I concentrated on those two. Because I felt by now you might not be able to get your hands on them, I included some of the documents that have been important in relation to Golden Tiger and United Sawmill. In particular, I included a copy of the guidelines I gave out to you in an earlier paper with the guideline paragraphs numbered. I have reference in here to the relevant numbered paragraphs in the guidelines in terms of each of the issues that are raised. I am not saying these are all the issues, but I think they are some of the significant ones.

If you turn to page 1, you will see the first thing I did was to set out some of the general issues. This will apply to all the assets under discussion. What exactly is a breach of the guidelines? We touched on this briefly with Mr. Wright. Are we talking about an actual breach, or are we talking about an appearance of a breach? Perhaps another way of putting it is, are there defences available to a breach of the guidelines? In other words, can you argue, "I forgot"?

On the surface, it looks like a breach, but when you hear the defence--which is: "I could not have breached. I was not in a conflict of interest because I forgot about this given asset"--is this a defence? In other words, what kind of intentions do you have to have in terms of the guidelines?

Mr. Treleven: I broke the speed limit. I forgot it was 55.

Mr. Chairman: Shut up. We are getting mens rea in here damned early.

Ms. Madisso: That is true.

Mr. Chairman: Let me state a concern I have. I have tried my best to make sure the committee staff stays out of the political arguments.

Mr. Treleven: Right. I will be quiet.

Mr. Chairman: That will be real helpful. Let Merike go through her document and present to you what she thinks is relevant. I told the staff they are going to disappear into the woodwork at some time and not be available to answer questions or to wink or nod at anybody. We are getting very close to that stage. As a final appearance here, Merike is going to go through her paper, and then she may not physically leave us, but she is not going to be part of the political discussions.

Mr. Callahan: In dealing with page 1 and items 1 and 2, I wonder whether you can give to the committee--I hope in very easy terms--the differences between absolute liability, strict liability and liability where



you require a guilty mind, as expressed by my friend. That may be helpful to the committee.

Mr. Treleaven: First year of law school.

Mr. Chairman: Why do you not go present a plaque somewhere?

Ms. Madisso: In terms of what kind of intention is necessary for breaching the guidelines, is it the case that a breach is a breach and that there is no defence? You are strictly liable for complying with the guidelines, and if you break the guidelines, it is too bad; there is no defence. Or is it like criminal law, on the other side of the coin, which is there is no crime unless you intended to commit it? We know there are some crimes like that. With murder, for instance, you have a specific intent. Is that a defence?

Then there is a middle ground, where you can defend yourself on the grounds of: "I took all reasonable steps. Nobody could have done it more reasonably. It is true I may be in conflict, but the steps were reasonable." You may want to canvass those three areas in terms of the facts here with regard to Mr. Fontaine.

Ms. Hart: Perhaps you can remind me. Is there any provincial offence that is a strict offence without the defence of due diligence? What kind of offence? I cannot remember whether there is. I thought that for every strict liability offence you always had the defence of due diligence.

Mr. Chairman: I am going to remind you now.

Mr. Treleaven: I warned you, Mr. Chairman.

Mr. Chairman: Yes. This is not going to be a decision based on criminal law, nor is it going to be a matter that is based on precedents that you found in the court or learned in law school. This is going to be judgement by a peer group, with an immense amount of subjective, totally unrelated, I suppose, opinions thrown in the mix. You can introduce all the criminal court proceedings you want. You can demonstrate your legal brilliance ad nauseam. The fact is each member of the committee, legally trained or not, has equal jurisdiction here and will judge it as he or she sees fit. Your precedents do not stand. Your legal definitions do not stand. What stands is your parliamentary judgement and nothing else.

Mr. Callahan: With all due respect, this is what Merike is saying to us, that we have to decide whether these guidelines fit into category 3, 2 or 1.

Mr. Chairman: No, you do not. That is what I am saying. These guidelines do not fit into categories of law.

Mr. Callahan: No. If you are talking about the question of a breach as raised in 1 and 2, you have to get into those three areas.

Mr. Chairman: No, you do not.

Mr. Callahan: With due respect, I think you do.

Mr. Chairman: You can get this in front of a judge where you will, but in this forum you do not.

Mr. Callahan: All right. If we do not get into those areas, what happens in fact is that we do not know whether the guidelines were breached, as was said, simply by breaching them or intending to breach them or having exercised reasonable efforts not to breach them.

11:00

Mr. Chairman: The problem I am having with that argument is that there is absolutely nothing I know of that would make this committee deal with it in those terms. This committee is free to deal with it in any way it sees fit. It is kind of a rough justice, but that is what we have.

Ms. Hart: The reason I asked the question was not to put this into a legalistic framework. It is just that we are dealing with the reputation of one of our colleagues. To put it in context, we have to see how a criminal statute would deal with it, how a quasi-criminal statute, which is a provincial matter, would deal with it and the reasons they deal with them differently. If we decide we are going to go that way, we need that as background. We may decide not to, but I wanted the information for my ability to put it in context.

Mr. Chairman: You may do it that way; you are quite free to do that. However, any other member of the committee is free to say: "That is totally irrelevant. I do not agree with it. I do not want to know that information. It does not apply."

Ms. Hart: May I have the answer?

Mr. Martel: Is there not something wrong with the argument? My friend is saying we need a law with which to decide whether it was in contravention of the criminal law. We do not have any laws about conflict of interest. What you are trying to do is stack it up against either a provincial law or a federal law, neither of which we have, regarding conflict of interest as it pertains to members of this Legislature or the cabinet. You cannot make a law and say it violates a criminal law or a provincial statute. We do not have them.

Ms. Hart: That is quite correct--

Mr. Chairman: The difficulty we are having here is that we are all trying to get this in our own perspective. I am going to go back to what we said very early on.

There are two things you can use as a framework for this. One would be the guidelines as pronounced by Premier Peterson. They have the status of guidelines from the Premier's office. They do not apply to all members of the assembly and they really have no status with the assembly, but they are known and that is what this is all about. That is one term of reference you have. The second one is a legal reference, and that is the Legislative Assembly Act; it is an act that is not quite similar to other pieces law in the province.

If you are looking for a framework, something to judge against perspectives, those would be the two items that would be within our jurisdiction and against which you can kind of balance this case. You cannot go outside of that, I am afraid; you cannot compare it to the Criminal Code, for example.

If you chose the route of a judicial inquiry, which was not the choice of the House in this matter, then those other statutes or norms might apply; certainly, the rules of evidence would apply; but in this forum, which is a unique and, I suppose, rather difficult one for any of us to try to work within, there are only two yardsticks: the guidelines as pronounced by the Premier, which really have no status, and the Legislative Assembly Act, which certainly does have status. Those are your parameters; so you have to make your judgement calls within those two.

Ms. Hart: Perhaps I can put my question more clearly. The Legislative Assembly Act is a provincial statute. As I understand it, a breach of the Legislative Assembly Act is a quasi-criminal matter. My question to Merike is: In quasi-criminal matters, such as a breach of this provincial statute, is there always a defence of due diligence?

Ms. Madisso: I do not know. I would have get back to you on it.

Ms. Hart: Thank you. I would appreciate it if you would.

Mr. Callahan: Mr. Chairman, I appreciate what you are saying, and we really should not get into the legal mumbo-jumbo. I am not trying to do that. All I am saying is that Merike is raising in items 1 and 2 something we may very well have to decide. In other words, does just the fact that you do not comply with the guidelines trigger the event; or does the fact that you used all reasonable diligence act as a defence to a breach of it; or, third, does it require that, in fact, you knowingly tried to do something? That does not necessarily get into a question of law. What it gets into is the very question Merike is raising by items 1 and 2.

I do not think we can simply say that you do not decide which of those it is, because it may be helpful not only for this but also for future interpretation of whether it is a matter of strict or absolute liability or whether you need to have a going mind with it; you have to be devious, as it were.

Mr. Chairman: Let me try to help you.

Mr. Martel: Kick him in the head.

Mr. Chairman: You asked for it and you are getting it.

For example, in item 1, on defining what is a breach of guidelines, I am afraid the best we can do for you is to raise these questions. We cannot dictate to you whether something has to be an actual breach or an appearance of a breach. There is a parliamentary judgemental call which you are required to make. I am afraid you cannot enter into the argument about whether it is just an appearance or actual, because in the parliamentary world there is no distinction.

If you want to get into the arguments on technicalities, you can enter into some discussion about that, but it is judgement by peers that we are after here, and it is not as if you can get off on a technicality. If this committee says in its report to the House that there was a breach, then that is what the House will vote on, and you cannot go to a court and say there was something wrong in the proceedings. The committee is free to proceed as it sees fit and to make its report as it sees fit, and the House will vote on it in that way.



Mr. Martel: In other words, you cannot be a little bit pregnant.

Mr. Morin: Either you have a rape or a near rape. That is all.

Mr. Martel: You cannot be a little bit pregnant.

Mr. Morin: Exactly. There was a breach or there was not.

Mr. Callahan: That is a pregnant statement, let me tell you.

Mr. Morin: That is the practical sense. We are not lawyers.

Mr. Chairman: Thank God, Gilles. We are getting better legal advice from the nonlawyers.

Ms. Madisso: It was not my intention to make you involve yourself in a lawyer's interest in these things. It was just that the matter of intention has been raised, and I thought you might want to consider that.

Interjection: Some do.

Ms. Madisso: Some do and some do not.

Mr. Martel: You just gave them a hook to hang their hats on, Merike.

Ms. Madisso: Third, what situations, if any, would fall under the last paragraph of the guidelines, that is, paragraph 18, a sort of basket clause? "These guidelines are not exhaustive, nor could they in reality embrace all possible situations representing or suggesting a conflict of interest." Again, this is something you might want to apply to all the assets, as we look at them, or perhaps all the situations.

The first category is private corporations. I looked at United Sawmill as the major example of that. I set out some of the facts on the left-hand side of that chart, but you have the whole set of them in your draft report, if you want to go back and refer to that. I did not want to duplicate that document for you a second time.

One of the questions there that has arisen time and time again is that first question listed under Specific Issues: "Was there compliance with the time limits in the guidelines for putting the asset into blind trust?" I refer you to paragraphs 15 and 16 of the guidelines, which address the whole question of time limits. As you understand, private corporations under the guidelines cannot be contractually involved with the provincial government unless the asset is in a blind trust. The question then becomes, by what time did the guidelines require the asset to be in a blind trust in view of the fact that there were, it seems, contracts with the government, specifically the forest management agreement?

The Eberts letter is significant, and I have included that. The Wright letter is significant, and I have included that. They are attached.

The second question that arose in connection with the time limits was--Mr. Martel, I think you were particularly interested in this--when was disclosure supposed to take place? If the guidelines say a blind trust is supposed to be established by the end of the year and there are disclosure provisions, it is a disclosure to the Clerk of the House. A provision is made

that a statement is to go to the Clerk of the House or, as Blenus Wright testified, he believed the time limit for disclosure to him was December 31. I have included Mr. Wright's testimony in Hansard on that point because, as you know, the disclosure statement actually was produced in the House at the end of January 1986.

11:10

On the forest management agreement with the Ministry of Natural Resources, I refer you to paragraph 6 of the guidelines, which is the paragraph dealing with private companies becoming contractually involved with the government. It cannot be done under paragraph 6 unless the interest of the minister is in a blind trust set up in accordance with these guidelines.

Again, a problem arises there in connection with the time limits. The trust has to be set up by the end of the year, and yet there is concern expressed that the company is still negotiating with another ministry with regard to the forest management agreement, and it is not in a blind trust yet. You might want to see how those two sections of the guidelines can be reconciled. I also refer you to the Eberts letter and the Wright letter in that regard.

There has been a lot of concern in relation to the FMA and the conversations or contacts that Mr. Fontaine had with a variety of people, Mr. Therriault, Mr. Cloutier and Mr. Duval. Specifically, the guidelines do not address this kind of situation. However, if you find this is not a situation that should have taken place, you might want to refer to the last paragraph of the guidelines in terms of your rationale for what you believe is wrong with it.

Mr. O'Connor: Can I just intervene there for a brief second? You made the bald statement, Merike, that the guidelines do not seem to deal with that. Would not paragraph 8 deal with the question of Mr. Fontaine's contacts with a civil servant? "Third, while holding office, it will be the responsibility of the individual minister to ensure that whenever a matter involving a personal beneficial interest comes before the ministry for which the minister is responsible, being a matter involving the discretion of the government, the minister will request a colleague...." to intervene.

Ms. Madisso: The problem with that is the FMA does not come before the ministry for which the minister is responsible. There is a problem in applying that paragraph to these facts. The FMA was with the Ministry of Natural Resources. It was not with Mr. Fontaine's ministry.

Mr. O'Connor: Or paragraph 6? Surely that point--

Mr. Chairman: It would help me a little bit if we let Merike go through this on her own, and then we can have these arguments.

Ms. Madisso: It seems to me that the paragraph that applies in relation to the FMA is paragraph 6, "No private company in which a minister or his or her family have an interest may become contractually involved with the government of Ontario unless the interests of the minister....have been placed in a 'blind trust'...."

The problem with paragraph 8, as I say, is that it is another ministry. Paragraph 8 says, "Third, while holding office, it will be the responsibility of the individual minister to ensure that whenever a matter involving a personal beneficial interest comes before the ministry for which the minister is responsible...." The Ministry of Natural Resources was not his ministry.

The third issue is renewal of licences under the Crown Timber Act, again in relation to United Sawmill. You are looking at paragraph 6 of the guidelines and what a private company can or cannot do in its contractual involvement. I think you might want to consider whether or not the renewal of timber licences does actually fall under that paragraph. Is it a contractual involvement? Second, it seems that paragraph 7 provides a defence to paragraph 6. In other words, there are some contracts with the government that are exempted by paragraph 7. It has been referred to by Ms. Eberts as the Ontario health insurance plan exemption, and you see that in paragraph 7, as something that "is available evenhandedly to all members of the public...or to a specific class of members of the public." You might want to consider whether or not there is anything in terms of the licences that is relevant in paragraph 7.

Third, there is the question of the time limit provisions and the setting up of the blind trust. Is there a period of time within which contracting between the private company, which is not in a blind trust, can still go on because the requirement is to have the company in a blind trust by the end of the year? There is reference to the Eberts letter and the Wright letter.

Then on to public corporations. The name is Golden Tiger. Again the left-hand column is just two or three of the dates set out. Again there is the question of time limits.

Because this is a public company, you are looking at a different paragraph in the guidelines; you are looking at paragraph 11, which states, "With respect to share interests in public corporations, ministers and their families will be required to divest themselves of such holdings or to place all such holdings in the hands of a trustee."

There are two options where a public corporation is concerned: sell or put in a trust. The time limit is set out in 15 and 16; the Eberts letter reference and the Wright letter reference.

On the question of the escrow shares, the argument has been made that this is equivalent to putting them into a blind trust because the owner cannot reach them. What would your finding of fact be on that? As you know, Mr. Fontaine is, I take it, still an owner of those shares.

Third, again a breach under the last paragraph of the guidelines. It has been argued that a mines minister should not have had these shares in his possession and should not have been an owner during this time period; namely, after he became a cabinet minister, and until he divested himself of them in December, even though perhaps he is complying with the time limits in the guidelines, none the less a higher standard should have been expected. On the other hand, you may wish to say that the time limits were complied with and that was what was required. That is the question of the shares.

The other question in relation to Golden Tiger was the Ontario mineral exploration program grants. Again some dates are set out for you on the left-hand side. We had some testimony about how discretionary the awarding of these grants is. Do they fall under paragraph 7? Are they a kind of grant that is available evenhandedly to all members of the public or to a specific class of members, such as with the Ontario health insurance plan or crop insurance?

Paragraph 8 is the personal beneficial interest problem again. Again, you breach paragraph 8 only if you are involved with something that comes to



your ministry. As you know, the OMEP grants were with the Ministry of Natural Resources until April 1, 1986; so again another problem in terms of a specific breach.

Mr. Callahan: May I ask a question of Merike? I know they are not your guidelines, but I would like to know how you square paragraph 15 with 16. Although it discusses land first, 15 says, "and the disclosure of other holdings where applicable will be made within a month." Then in 16 it says--I see, one is disclosure and the other is the setting up of a blind trust. Okay.

Mr. Treleaven: Mr. Chairman, on a point of procedure: When we get through this first round, do you intend to have any kind of voting procedure on whether we find those are the facts and so on?

Mr. Chairman: Yes.

Mr. Treleaven: If so, do you then intend, like a pyramid, to go to stage 2, which will always be dependent on what we found to be the facts in stage 1 and stage 3, etc.? If you do, you get to the end and find yourself foreclosed from a conclusion.

11:20

Mr. Chairman: No. If I can release the staff for the remainder of the morning, from this point on it would assist us to nail down some dates and a few other matters and some quotations.

I would like to come back this afternoon with a draft of what we have agreed to so far and at that time to take a vote on that, to set it behind us and then probably move to Mr. Warner's motion as the basis for motions after that.

I am not precluding that we could proceed to something such as Mr. Warner's motion before we see the final draft, but I want to be in agreement on that draft before we get too far down the road.

Mr. Treleaven: The problem is that we come along to Mr. Warner's motion, and you have in your mind, and have had in your mind for several days now, a certain conclusion that you believe to be fact and to be correct. Then all of a sudden somebody is going to throw up to you: "That is not exactly what we have in this report. This report did not find that as a fact and therefore you cannot use that as part of your reasoning," etc.

Mr. Chairman: No. That is not going to be a problem.

Mr. Treleaven: That is good. Thank you very much for consoling me.

Mr. Callahan: At the risk of being repetitious, I would like to ask a question before the staff leaves. It is raised by the very excellent overview that Merike Madisso has given us. I am sure you are going to be upset. It is the question of intention.

For instance, if the letter from Eberts says, "Do it now," or the guidelines say, "Do it within a month," or whatever, and Mr. Wright says, "Do it by X date," obviously that has to have a bearing on the question or whether the person can be misled by the person who supposedly is the mountain, Mr. Wright, in terms of saying when and how he has to comply with it. Is that not fairly accurate?

Mr. Chairman: I cannot preclude from anyone's mind whether he thinks someone was given wrong advice or whether someone did not follow through on a job he was given--by the minister in this case--but paramount is that none of us can escape from the tradition that the member is responsible for whatever happens.

You can offer by way of explanation, "My staff did not do what I told them to do," but in the end, whether they did it or not, the person who is responsible for that action is the member and no one else.

Mr. Callahan: I appreciate that right at the heart of the very issue is if you say that by doing something contrary to the guidelines you are in conflict, or in the alternative, you say that you were led astray by people who you thought were authoritative about it in terms of your breach of the conflict guidelines. Do you see what I mean and what I am saying?

Mr. Chairman: You will all make your own judgements on this, but my judgement call would be that you cannot say, "I have been led astray." That is no defence in this instance.

Mr. Callahan: It is strict compliance with the terms of the guidelines.

Mr. Chairman: Yes, that is my version of it. You will all form your own opinions on this matter, but I think the parliamentary tradition is pretty strong. However impractical this might be, if one of the 16,000 people in a certain ministry fouls up, the person who hangs is the minister, whether he knew of the foul-up or whether he had anything to do with it. The books are full of instances exactly like that where a minister resigned, not because he did anything or knew anything happened, but because something happened in his ministry and he or she was held responsible for it. That is an overwhelming parliamentary fact.

Mr. Callahan: Ministerial responsibility is what you are saying.

Mr. Chairman: Ministerial responsibility is absolute. It does not matter whether you knew what was going on or whether you were a participant in it; the assumption is that you were supposed to know.

Mr. Callahan: Okay.

Mr. Chairman: It might be quite a wrongful notion, but that is the notion.

Mr. Callahan: Can I ask one further question then? Maybe it is getting too far down the line, but if a decision is made that there was a conflict, let us say, will we append to that view the fact that he may have been misled in terms of time limits or whatever by those people who should have been assisting him; that even though it was a conflict, it was because of his being misled?

Mr. Chairman: Someone may want to do that, yes.

Mr. Callahan: I find it somewhat in accord with what you are saying.

Mr. Chairman: Yes. I hear you.

Mr. O'Connor: Can I raise one thing before we go on about this draft? It has been bothering me, and I think I have identified it. This overview that Merike has provided us is excellent, but it seems to me the guidelines, taken as a whole, require two basic things of ministers. The first one is to disclose all your assets; that is set out in paragraph 2. Having disclosed all your assets, the second one is to do certain things with them: sell them, put them in a blind trust or not deal with them. Therefore, there are perhaps two general ways in which a minister can violate the general conflict of interest. One is not to disclose, and the second is to deal with them in a way that is inappropriate according to the later paragraphs.

The overview seems to start with the second possibility of breaching the guidelines. It does not start with what I think should be basic. The number one item is a breach of paragraph 2; that is, the failure to disclose. We know there was a failure to disclose in terms of 16, 17, or 18 items, most of which Mr. Martel has characterized as junk, and I agree with him, but some of which are not; they are serious. Where does that fit in with the general guidelines?

Ms. Madisso: I think I disagree, Mr. O'Connor. If you look at paragraph 3 of the guidelines, there is a duty to disclose all share or debt interest in private companies and land.

Mr. O'Connor: Yes.

Ms. Madisso: It does not say public companies and land.

Mr. Warner: Does that mean you do not have to disclose public?

Ms. Madisso: The way I read it, you have to put it into a trust or sell it where public is concerned.

Mr. O'Connor: All I am suggesting, though, is that in your overview, in that there was evidence that he failed to disclose certain assets--I believe there are 17 assets we have calculated or counted up--should we not have an initial paragraph at least questioning whether some of them are private holdings?

Ms. Madisso: Private? Well, yes.

Mr. O'Connor: Should not the question of whether he is in breach of the guidelines for failure to disclose be asked, before going on to whether he is in breach of the guidelines by dealing with them inappropriately?

Ms. Madisso: It is true that I did not deal with the minor assets, and there are private company holdings that should have been disclosed.

Mr. O'Connor: Yes.

Ms. Madisso: However, those are private ones. I thought you were raising it in connection with Golden Tiger. You are not.

Mr. O'Connor: What we are saying is that a strict interpretation of paragraph 3 means he would not have to disclose the 17,000 shares of Golden Tiger.

Ms. Madisso: That is how I read it. Yes.



Mr. Callahan: "Private" is quite clear. I do not think there is any question of strict interpretation; it is the only one.

Mr. Treleven: Look at paragraph 2; that is your catch-all. It says they make public disclosure of the following categories owned in whole or in part, and it talks about companies; it does not talk about private or personal. Number 2 is the catch-all; then it gets more specific.

This conversation seems to be coming around to the fact--I am my own grandpa--that they do not have to disclose anything.

Mr. Callahan: We have found out that much now, though.

Mr. O'Connor: The question of failure to disclose should at least be raised. In coming before us, he has admitted he had six more subject to question.

Mr. Chairman: It also raises the question I am going to put to you now: Do we want to include in the report something of this nature, either this document or some variation of it?

There are two ways to deal with this. This was prepared at the request of one of the members to try to provide a framework and the relationship between what we know and what appears to be places where a breach could have occurred. It is useful as that kind of information for members of the committee.

I have no great difficulty in putting this in the report, except to say it begs the argument and precludes some other opinions--for example, the one Mr. O'Connor just raised--and it is not really the findings of the committee. It would be my preference, I guess, not to include it verbatim in the report. You could make reference to it as you go through and to use it in that sense; but it seems to me it is not the type of material you would want to include in the report itself.

11:30

Mr. O'Connor: Just back on that point: I do not want to belabour it, but I do not know that we can categorize all of that which he failed to disclose as minor. There is a \$50,000 debt owing to him that was not disclosed, for instance, and a \$13,000 debt that was not disclosed; those are not minor, in my opinion.

Without asking the staff to characterize whether they are minor or major, I would like to see a paragraph in there dealing with the nondisclosure of private interests, period, and let us quantify them or characterize them as major or minor.

Mr. Warner: That is fair.

Mr. Chairman: May I release the staff to go do some background work for us and assist us in trying to get that draft? If the two of you want to go and make your phone call, thank you.

The next stage of business would be to move to motions for consideration. I have indicated that, simply because he gave us notice, we will put Mr. Warner's motion on the table. Might I suggest a way to proceed?

It is a reasonably lengthy motion, in some six parts, and it would be reasonable to go through it part by part, just kind of putting the question, so to speak. You may want to have some kind of general argument prior to going through it in that way. Would you give me some indication of what your preference is?

Mr. Treleaven: I would think by looking through it that if you are going to have disputes on particular points, you are better to advance from a very narrow precept than from a wider one. For example, you would be wise to split item 1 into two parts, because we have two separate sections there, and you would want to have a discussion and a separate vote on the first sentence, "Mr. Fontaine violated the the Premier's conflict-of-interest guidelines," period, because the second sentence, "Neither the Premier nor his office" and so on, is a different subject. A person might agree with one of those and disagree with the other, so it is going to fail. You should break it down and do sentence by sentence what you can get agreement on.

Mr. Warner: Since it is my motion, may I make a suggestion? If it is helpful to the committee members, I attempted to put together a motion that I felt accurately reflected the major items with respect to this inquiry. I have simply adopted my own organization on it and, as you have noted, I have six sections. I am perfectly comfortable with splitting sections and entertaining discussions about amending particular sections, sentences or whatever.

What I would appreciate, if it is possible for the chair to allow it, is a general discussion on each of the sections and a discussion of all of it before passing each specific part towards a vote or the entire thing towards a vote. Obviously, as Mr. Treleaven has mentioned, members will want to discuss at some length section 1, in which there are really two distinct parts. That is fine. I would like to see kind of ranging discussion for a little while and then pull it all back together, I hope, with one vote.

Mr. Callahan: I accept what my colleague is saying. I suggest we leave item 1 until last because, having heard Merike's outline, I at least have some reservations, and maybe some others will, about some of the things Mr. Warner has referred to here as being conflicts. Perhaps we should leave that first part to last, proceed through the other items first, either accept or reject what Mr. Warner has said constitute the conflicts and then come to the final one. I do not know whether that is agreeable to Mr. Warner. I suppose it will be.

Mr. Warner: If we are going to follow what I was suggesting, we will go through an exhaustive discussion of the motion before placing the motion. In other words--

Mr. Callahan: That sounds reasonable.

Mr. Warner: Naturally, I put the first item because that is the essential thing. That is what the inquiry is all about, namely, did he or did he not break the guidelines? Therefore, I put it up front. Naturally, that is a conclusion which follows from an examination of all of the evidence and some of the evidence as contained in other sentences. I am suggesting we discuss the entire thing before voting on anything. You may want to amend certain parts as we go through. I may want to amend certain parts, because it was placed a week or so ago before the committee; but when we finish all of that, we should have one vote on whatever we have agreed upon. Or, if there is no agreement, then obviously if it carries, you open it up to a minority report.



Mr. Chairman: Let me offer a suggestion to you. It goes back to when we were interviewing for the Clerk's position. It seems to me we have been given reasonable notice of the motion. It might be useful now to have almost a discussion on the principle of the motion in general terms and then to proceed through it almost on a line-by-line basis. At the end of that process, you may well want to put subsequent motions which elaborate or add additional concepts to it, something like that. Would that be an agreeable way to proceed? In other words, have a general discussion on the motion itself, then go through it point by point, line by line and then we will be in a position to take amendments, further sections to the motion, something like that.

Mr. Callahan: I think that makes sense because it is going to confine the parameters somewhat. If we do as Mr. Warner has suggested--have a general discussion about the whole thing--we are going to get into all sorts of things that perhaps are not even going to be identified in here as items we have to vote on. I agree with you; I think that is the route to go.

Mr. Chairman: Let us consider Mr. Warner's motion on the table and we will first of all have a general discussion on the motion. Let me put this final caveat to you. If there are amendments you want considered, the earlier you can give us notice of those amendments, the better it will be. If there are things you think are obviously missing from his motion or other aspects of it that you want considered, and you intend to move a motion subsequent to our discussion, the earlier you can put those words together and show them to the rest of us, the more helpful it will be. That might indicate whether somebody supports a given section or not, or that Mr. Warner takes something as a friendly amendment and changes it himself.

Mr. Warner: There is no question in my mind that from the outset this is a very disturbing kind of process we have gone through and it is a very disturbing situation obviously for Mr. Fontaine and for all of us as colleagues. It is an unpleasant task and it is one I have not particularly enjoyed.

It seemed clear to me from the testimony, in particular the letter from Mary Eberts, which defined very clearly what needed to be done and subsequent testimony, that what needed to be done was not done. I guess the inescapable situation is that, as Mr. Fontaine mentioned on Friday when he was here, he was not only a minister but an MPP who saw nothing wrong in going to a meeting with officials to discuss an forest management agreement that was not in isolation. The signing of a forest management agreement is of benefit to Hearst; no one denies that. The town probably would not survive in the long run without that kind of an agreement. Understand that.

There is also a benefit to United Sawmill, a company in which he has a substantial financial interest, his family business for three generations. Because it is a family business, he did not want to see it go under. He did not want to sell it, and I understand that, but you cannot escape that he should never have involved himself with those discussions; not once, not twice, but at least four times--four that are recorded in his memos. That is inescapable. He should never have been involved.

11:40

Then you get into the whole business about judgement: what should he have done? I guess each of us handles these problems in the best way we know how, but it seemed to me to kind of leap out at you that at the very least he



should have summoned someone else, another colleague in the cabinet, another Liberal colleague. I know he was at a disadvantage because he was the only northern Liberal, but he should have called on someone else, maybe even his good friend Gilles, who is also fluently bilingual and who understands the north--10 years as the Ombudsman's representative in the north--someone who understood not only the northern community but also understood business very well, someone who could have been involved instead of him.

That is not what he did. So, to a certain extent, the whole question about personal gain is put to the side. He broke the guidelines because he was involved directly in discussing business which affected his company and he did so, obviously, while holding the position of a cabinet minister. It is wrong. You cannot escape that. It is wrong.

As Mr. Fontaine said when he was in here on Friday, the appearance, in hindsight, was not good, but the appearance is part of what we are dealing with. A higher standard is demanded of politicians. You have not only to be honest, you have to appear to be honest. You cannot be tarnished in any way. Every time one of our colleagues is tarnished, we are all diminished a bit and we know that.

There are two major items, as we all know. One is the forest management agreement and the other is Golden Tiger. On the Golden Tiger one, to be fair to Mr. Fontaine, I guess if we owned shares we would not want to see them all put down the pipe either. He was going to lose money; so the question is, "How do I minimize my losses?" I understand that. But he is the minister of mines, he is holding stock in a mining company and the mining company is receiving grants from the province, ultimately under his ministry. It is wrong.

What should he have done? First of all, if you acknowledge that as a cabinet minister you should not be involved in owning shares in a mining company when that company is receiving public grants for which you are ultimately responsible, you have to take action. I suggest the easiest way to have taken action and to have minimized his losses would be to have immediately put that business into a blind trust. He could have let Canada Trust or somebody else make some economic decisions on his behalf as to when to sell the shares and what kind of a loss he would take or what kind of a profit he might get, and so on. But get rid of them. Get them, for all intents and purposes, out of his hands.

He did not do that. He did not do what he was asked to do. He did comply with the guidelines in one respect; that is, he was told he had until December to get rid of the shares and he got rid of them before the end of December.

However, this is not just any ordinary case. These are mining shares owned by a minister of mines. That is special. It should have been treated that way. It was not. As the chairman mentioned earlier, if you are the minister, you are responsible and you are held responsible for your actions. Members have mentioned the Darcy McKeough situation about which some would suggest Mr. McKeough had nothing to do with the business upon which he ultimately resigned. He had to resign. Whether he could prove he was directly involved or not, he had to resign. In this case, we have a slightly different twist.

The guidelines are there. He is responsible for upholding the guidelines whether or not the guidelines are weak. Some have suggested they are weaker than those of the former government, and they certainly appear to be, whether

or not they were enforced, and apparently they were not. I have no evidence before me to show the guidelines were enforced or that anybody even made a half decent attempt to enforce them. On Friday, Mr. Fontaine mentioned that somebody sat down with him for half an hour or something to go over what he was supposed to do, and that was it.

I would have thought, as his holdings started to come forward, there would have been a little alarm bell ringing in the Office of the Premier saying: "We have a Minister of Northern Development and Mines here who has mining shares. What is he doing about it? That is a conflict of interest. Somebody get out there. Go and see René and take care of this. This is bad." No. Nothing is done.

As far as I can determine, neither the Premier (Mr. Peterson) nor anybody in his office was in charge of making sure René Fontaine lived up to the guidelines. To be fair, to a certain extent, that is a little beside the point we are looking at because René is responsible for his actions. It does not matter that no one polices it. It does not matter if the guidelines are weak. He did not even live up to the weak guidelines.

I would like to close off and then maybe we can get into some more detailed discussion. I want to make one thing very clear in my mind from the outset. My style is to deal with this stuff in a straightforward way. It is the only way I have dealt in politics.

As far as I am concerned, René Fontaine did not behave properly. He broke the guidelines. In my own mind, in my own conscience, I cannot see there was any criminal activity. I do not think he schemed and plotted in a way for personal gain. What he did was wrong, and probably a whole bunch of factors are involved in it, not the least of which is his own personal approach to life, which is just a little bit on the high horse. I do not think there was any criminal intent. Frankly, we have not received a shred of evidence that would stand up in a court of law to show criminal intent or that he was doing it primarily for personal gain. Obviously, as we discussed it before, United Sawmill will do better with the forest management agreement than without the forest management agreement, but I am talking about the personal gain, the money in the pocket today. There is no evidence of any of that.

I feel clear in my conscience in saying that René violated the conflict-of-interest guidelines. I feel bad in that it is one of our colleagues because, as I said at the outset, I think we all know he broke the guidelines, and when we say that, it hurts each of us a little bit. I am sure my constituents probably have a lesser view of all politicians, including me, because of the fact that René Fontaine did not do things properly. I will leave it at that.

11:50

Mr. Treleaven: I would like to summarize. As does Mr. Warner, I believe Mr. Fontaine breached the conflict-of-interest guidelines. I also believe he is guilty of atrocious judgement. I do not think he understood the difference between right and wrong in various areas as recently as last Friday. The committee, which is a child of the Legislature, was misled by the omission of certain information from information given to the committee.

I have gone past the point of asking the questions "Were the guidelines broken?" and "Did he use terrible judgement?" In my mind, the questions are:



"Was the misleading of the committee and the Legislature deliberate, or was it done in complete ignorance of the proprieties of people in public life? Was he lulled and, further, gulled by others into improper procedures?" "Others" includes the Office of the Premier, the Premier's henchmen and so on, who should have been advising him.

Mr. Callahan: I take exception to that. If that is not unparliamentary, I do not know what is. "Henchmen" irritates. I think it demeans the member.

Mr. Treleaven: I am not directly attacking you. That is it, Mr. Chairman. Those are my comments. I do not think there is anything wrong with "henchmen." Good guys have henchmen. I am sure Tonto and the Lone Ranger are good guys, and they are henchmen. You should not take offence, Bob.

Mr. Chairman: Last year he considered those same people to be saints.

Mr. Callahan: In looking at the statement made by Mr. Warner, I would like to get some clarification, particularly in the light of what Merike has told us this morning and the guidelines we have gone through.

Under item 6, with reference to the FMA, she reminded us that there was an obligation only if it came before the ministry for which he was responsible. That is the clear reading of the guideline. I want to find out whether Mr. Warner is talking about item 6 or paragraph 18, where there seems to be a broader, almost catch-all situation.

Mr. Warner: Are you referring to United Sawmill?

Mr. Callahan: Yes.

Mr. Warner: The FMA?

Mr. Callahan: Yes. Merike has told us that if you read the guideline under section 6, clearly there was no responsibility, because it was not the ministry for which he was responsible; it was the Ministry of Natural Resources.

Mr. Chairman: Let me interject to point out the problem I have. Merike is not in a position to tell the committee what is and what is not; she is in a position to offer a legal opinion on how it might be interpreted. Unfortunately, it is your job to make the decision on whether there is a breach of the guidelines. While I thought it was useful to have her go through it, I do not want you to lean on it as being absolute; it is not. The judgement call is yours.

Mr. Callahan: The reason I raised it was that if we are going to say, as you said at the outset, that the minister is responsible, regardless of who dropped the ball--it is an absolute responsibility--clearly one has to look at the guidelines themselves. You cannot have it both ways. One has to look at the guidelines and read them in a fair interpretation. Without a legal interpretation from Merike, reading item 6, one would be drawn to the irresistible conclusion that it has to be his own ministry; it cannot be some other ministry. I think the facts are clear in this case that the ministry involved was Natural Resources, not Mr. Fontaine's ministry.



Mr. Warner: That is an interesting nicety. As Mr. Cloutier mentioned, the fact remains that when they were having difficulty reaching an agreement on the FMA, they called René because they felt he could do something. Therefore, they knew or assumed that his involvement would help cement the thing. They involved someone who owned a company in the agreement.

Mr. Callahan: I appreciate what you are saying, but what I am saying is that you cannot have it both ways. If, as has been stated, a minister is responsible for any breach of the guidelines, if he is led into it by Mr. Wright giving him certain time limits and Ms. Eberts giving him different time limits, if it is absolute as a ministerial responsibility, then on the other side of the coin you also have to be prepared to say that if the guidelines speak clearly and do not cover the factual situation you are referring to, he is not in breach of the guidelines.

Mr. Warner: Hold on. Let us try this one a little differently.

Mr. Martel: You are really skating, my friend.

Mr. Warner: I hope I am not hearing what I think I hear.

Mr. Martel: Barbara Ann Scott would not.

Mr. Warner: There is a distinct difference between whether René had been involved in attempting to pull together with companies in the area to which he was not related in any way an FMA, and was attempting to do that as the local member involved with some other ministry, in this case the Ministry of Natural Resources--if you have companies A, B and C, and MNR is trying to get an agreement but cannot reach an agreement, and the local member is asked to participate, okay, but the little hook on this one is that one of these major players is a company he owns. That is a direct conflict of interest. The nicety about whether or not it is his ministry is irrelevant in that situation.

Mr. Callahan: That is where you and I part ways. As I have said before, if you are going to tie to a minister absolute and strict responsibility for the breach of the letter of the guidelines, on the other side of the coin, to be fair, you have to say: "All right. If there is a conflict, we have to look to the guidelines for the conflict. If it is not contained within the four corners of the definition of the guidelines, it is not a conflict."

I refer you to paragraph 6, because I think it is interesting in two respects. It is not a technicality. I am saying if the minister has the responsibility we have attributed to him, or appear to have, then we have to give him the other side of the coin and say, "If you have not gone outside the four corners of the guidelines, you are not in conflict."

Mr. Warner: This is fascinating.

Mr. Callahan: If you look at paragraph 6, it says: "No private company in which a minister or his or her family have an interest may become contractually involved with the government of Ontario unless the interest of the minister or family has been placed in a 'blind trust' set up in accordance with these guidelines. It shall be the responsibility of the trustee"--not the beneficiary of the trust but the trustee; in this case, who was it?

Mr. Warner: Roland Cloutier.

Mr. Callahan: Cloutier. He was a co-trustee, but he and whatever the trust company was--

Mr. Eichmanis: Canada Trust.

Mr. Callahan: "It shall be the responsibility of the trustee to ensure that if any matter affecting that interest comes before the ministry for which the minister is responsible"--and we are all clear on the fact that the ministry here was not the ministry for which René Fontaine was responsible; it was the Ministry of Natural Resources--"officials in the Premier's office are advised so that a colleague of the minister can be appointed to act for the ministry concerned for purposes of dealing with the matter."

If you are looking at that, it does not, at least in my view, come within the confines of paragraph 6, and that clause is pretty clear. All I am saying is that if you are saying the meetings with Therriault were a breach of the conflict guidelines, where are you specifically saying they were in breach?

Mr. Warner: I want to make sure I get this clear. It is the Liberal position that it is all right for--

Mr. Callahan: It is not the Liberal position. I am asking you a question.

Mr. Warner: What I take from your question is that it is all right to own a company as an MPP or cabinet minister and to negotiate on behalf of your family company to further the business of your company.

Mr. Callahan: To begin with, those are not the facts. I do not want to argue back and forth. Those are not the facts.

Mr. Warner: That is what you are suggesting. The facts are that Mr. Cloutier mentioned to us that he had never been contacted to undertake as trustee any of the blind trust business. At the meetings that were held, Mr. Fontaine brought the manager of his company along with him.

Mr. Callahan: How does that fit into paragraph 6? Where does it fit in?

Mr. Warner: It is a conflict of interest. If you think it is not, you are living under a different set of moral values than I am.

Mr. Callahan: Just a second. I agree with you morally, but as I said, if you are going to bind the minister and say it is an absolute liability--in other words, it is a set of rules that have been put down in stone, which are the guidelines--if you are going to say it does not matter whether he had good intentions or whatever, then you have to accept the fact that before he is brought within the framework of those guidelines, he cannot be in conflict. You cannot just go outside of them and find another conflict reason.

I am asking you, with reference to your first item, which section of the guidelines does it come under?

Mr. Chairman: To assist you, Mr. Callahan, there is no question that a section like 18 is the one that applies here.

Mr. Callahan: All right. That is all I want to know.

Mr. Chairman: I think we are about ready to call it a morning, but as we go through these arguments, I make this caution to you. The reason this is here before a parliamentary committee is that is how the judgement will be made. If we entertain a lot of discussion about under which section and what not or whether there was a technical breach, then this should be in front of a court. You would take rules of evidence and you would base your precedents in that manner. The House chose not to put in front of a court but to put it through a parliamentary committee.

I cannot preclude the argument, and I do not particularly want to, but it is not going to be useful to have a long argument about which section might have been violated. That is not why it is here. If you want that kind of argument, we should have said, "Send it to a court, which will give us a legal opinion on the matter." We are looking for a parliamentary opinion.

That is why, for example, in these guidelines it is a section like 18, because it is really saying, notwithstanding all the things we thought of, if something untoward happens, it ain't right either. In a nutshell, what has been labelled as section 18 of the guidelines really says, notwithstanding all this other stuff, that if something happens which should not happen, it is a violation.

It might be useful to conclude there and to begin at 2 p.m.

The committee recessed at 12:02 p.m.



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY  
ALLEGED CONFLICT OF INTEREST  
MONDAY, SEPTEMBER 22, 1986  
Afternoon Sitting



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

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Substitutions:

Callahan, R. V. (Brampton L) for Mr. Bossy

Hart, C. E. (York East L) for Mr. Mancini

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Monday, September 22, 1986

The committee resumed at 2:10 p.m. in room 228.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: Is there any further discussion of a general nature on Mr. Warner's motion?

Mr. Martel: Is Mr. Callahan finished?

Mr. Chairman: I took it that you were finished.

Mr. Callahan: I am going to listen to the pearls of wisdom of the other members of the committee for a while, Mr. Chairman. You will be happy to hear that.

Mr. Chairman: This will be a change.

Mr. Callahan: Is that vote of confidence or of no confidence?

Mr. Chairman: It is confidence.

Is there any further discussion of a general nature or can we move to the more specific?

Mr. Martel: I want to make a few points. I do not want to be lengthy but I am not sure where one starts when judging one's peers. Like my friend to my left today, I think I would rather be back in New Orleans or any other place but here.

Mr. Treleaven: Do we have a choice?

Interjection: Let us vote on it.

Mr. Martel: We could leave on the next boatload or planeload.

Ultimately, all of us have to make a decision and a not so pleasant one. In Mr. Fontaine's case, I think we have to look at a couple of positions.

As I suggested this morning, I do not think we can suggest that he was partially pregnant. You either have a conflict or you do not. The intent of what you are doing has to be separated. Quite frankly, I do not think Mr. Fontaine did anything in the forest management agreement except to get it on track. All the details of that FMA had been worked out by a previous government and I think Mr. Fontaine's involvement, although he should not have had it, was to make sure that the three parties agreed. Otherwise, there would have been no FMA.

I hold the Ministry of Natural Resources responsible for some of what went on. I am not sure I want to let it off the hook entirely. I think it was absolutely stupid that MNR called a meeting here in Toronto, even an



information meeting, and told the minister where it was since the minister had an interest in one of the companies. I think that whetted his appetite a little bit because the FMA was not going to go unless the three partners were in. That is my feeling. MNR cannot simply wash its hands of its involvement. I see somebody writing four memos about some meetings. I am not sure whether it is usual that one writes lengthy memos to oneself when one did not even call the meeting. There was a nervousness or a skittishness about that, and to report to the deputy right after the first meeting--I would not have minded being a fly on the wall when that report was being given to the deputy minister by Mr. Therriault after the first meeting.

I think Mr. Fontaine was drawn in. It would appear that he did not need much help once he got in; he was prepared to call a number of other meetings to make sure all the partners were on side. I do not think, though, he was changing the terms of the agreement; they were pretty well decided. What he was doing was making sure it occurred, and that is where the conflict lies. I do not suggest Mr. Fontaine is lily white, but quite frankly I do not think there was a move to line his own pockets, if I may use that term. Cloutier hit the nail on the head when he said, "If we do not have all three, we do not have an agreement." That is the nub of that issue, and René should not have been involved thereafter at any time from the time he became a minister.

On the other one, Golden Tiger, some of us made light of the fact that René blamed a lot of other people, and I think with some justification. The one place he did not come down on, interestingly enough, was the one that was really responsible, and that was the Premier's office and whoever was involved.

I say that for two reasons. I say it because I do not feel sufficient time was given to making sure everybody fell in line with the guidelines after the change of government. As well, in January, when the Premier (Mr. Peterson) made a statement in the House that the minister was squeaky clean, again I would like to know who it was who did what type of superficial investigation at that time for the Premier to come back and say he was squeaky clean. All someone would have had to do was to phone the Ministry of Natural Resources and ask, "What do you have on the files over there?" or "Do you have anything on the files over there that would incriminate the minister or involve the minister?" In fact, there were four memos, and I really feel that somebody in the Premier's office was playing fast and loose on preparing the answers and reviewing the material that was available. Therefore, while René might have been trying to cut his losses on Golden Tiger, I think he was complying with the necessity to divest by a certain time.

I think the Premier's office and the lack of assistance to new ministers, particularly new ministers who had no experience even as members--they have absolutely no experience and they come in here. Most people take a year to learn their way to the washroom, and they are asked to be ministers and learn the job. I guess ultimately the difficulty for us is that you are responsible for your actions around here, and the chairman has said it repeatedly: Ultimately, you are the one who is responsible for everything that goes on in your ministry and for your own actions. While one at times will wish it might be different, I do not think that is realistic. Ultimately, the blame rests with the former minister.

Again, outside of cutting his losses, I do not think he was trying to do anything crooked. I do not think there was anything in terms of issuing grants; that was automatic. He is ultimately responsible, mind you, but I do not think he was trying to do things that were irregular. He saw something--I am sure he never even saw the things. That is the interesting part, but ultimately you are responsible for what goes on in your ministry.

You have a former minister who made some mistakes. I think he had some help along the way in making those mistakes. He was careless in his own right, but for anyone to suggest he was trying to make a bundle or to use his influence I do not think is really reflective of what happened. I have to come down on the side of the conflict, but I think we have to put it in real terms. I do not know what the rest of you think. I am waiting with some ardour to hear the rest of the comments.

14:20

Mr. O'Connor: I have listened carefully to Mr. Warner and to most of what Mr. Martel has said. It is a tough question to settle in our own minds. I think we are all agreed at this point that very clearly there was a conflict, that some responsibility for that lies on the shoulders of René Fontaine and that some responsibility must lie with the Premier, his office and his staff. Where we perhaps differ slightly--this gets around to a general assessment of the evidence we heard over two and a half months from a number of witnesses. One begins to get an impression, an idea or a feeling of where the truth might actually lie. For instance, on the question of benefiting, I do not think there is any question that as a result of some of his actions René Fontaine did benefit and will benefit.

Mr. Martel: I do not think we disagree with you.

Mr. O'Connor: No. I was about to say I do not think people will disagree with that. The question comes to whether he did those actions and took those steps intentionally with a view to creating a benefit for himself. That is a much tougher question than one merely of benefit. Obviously, in the case of Golden Tiger, by hanging on to the shares for the number of months he did, he benefited. Whether it is cutting his losses or making a profit, the bottom line is that it is a benefit. By promoting the final signing of the forest management agreement, he and his company and associates will benefit in the future.

Mr. Martel: Right.

Mr. O'Connor: Obviously, by the renewal of timber licences and cutting licences in the name of United Sawmill and other associated companies, he and his family benefit. The question that arises is, did he take the steps, hang on to the shares, have the four meetings and do the other things with a view to encouraging those benefits or maximizing those benefits? We then get back to the totality of the evidence, the amount we heard from a whole variety of sources.

For instance, on the question of the Golden Tiger shares, there are some pretty large discrepancies in evidence. If we are prepared to accept that René did not have any knowledge of the \$1.4-million underwriting, and if he did not do anything wrong in holding on to his shares, we are going to have to find that some other people before this committee misled us.

Mr. Martin said somewhere in his evidence that shortly after the election he had a discussion with Mr. Fontaine about the underwriting. He told us that Mr. Fontaine would have known about the underwriting from three or four other sources. He said it was general public knowledge in the mining industry. Mr. Fontaine was a director in February when it was discussed at a directors' meeting, albeit one at which Mr. Fontaine may not have been present; presumably he would get the minutes of that meeting. He would have received quarterly reports of the company. Evidence and information about the



underwriting was in the Northern Miner. It was general knowledge in the industry that an underwriting increases the shares of the stock. That is the purpose of an underwriting. It is to finance the company better so that, with it being in a better financial position, people will be more attracted to buying the shares and the price of the shares will go up.

I suggest that all those are circumstantial except for the first statement where Mr. Martin says, "Shortly after the election, I spoke to René about the underwriting." If we are prepared to believe René's evidence that he did not know anything about the underwriting, despite the fact that he is a director of the company and despite the fact that he could have learned of it from four or five sources, then we have to find that Mr. Martin was misleading this committee.

On balance, because of those factors, Mr. Fontaine must have known of the underwriting. That, coupled with the fact that he waited until after the underwriting when the shares did go up--albeit he had till the end of the year--

Mr. Martel: May I interject? I agree with my friend. That is what we said. We thought he was cutting his losses, so I do not want to leave the impression--

Mr. O'Connor: That is my point again. Whether he is cutting his losses or making a profit, it is a benefit. He made 40 or 50 cents per share, and whether that simply recouped the loss or made him a profit, what is the difference? If he was holding off selling because he knew of the underwriting and he told us the opposite, then his evidence, in my mind, comes under some suspicion. His evidence with regard to a lot of things he told us comes under suspicion if that is the case, and I think it is. I do not think the man could possibly not have known that the underwriting was coming along in November and that it would significantly increase the value of the shares.

Again, it is a feeling, it is the totality of the evidence, and it is the straightforward manner in which Mr. Martin, subsequently and after some encouragement, came before this committee.

In any event, that is what I am wrestling with, Mr. Chairman. I would like to be more specific with regard to Mr. Warner's number one statement. That bald statement needs some exemplification. It needs some additional explanation, and I have accordingly placed before you, sir, and distributed to the members, an amendment to that motion which would better specify what we are talking about when we say Mr. Fontaine violated the conflict-of-interest guidelines of the Premier.

Our research has indicated that there are some 34 specific respects--I will put it as blandly as that--in which the conflict-of-interest guidelines were breached. The first 17 are simply the failure to disclose 17 assets. Thereafter, they vary. I will go through them if you wish, but there are 34 by count. Some are minor in nature in that they involve insignificant assets of little value which have not been included but which amount to a specific breach of the guidelines, if only a failure to disclose.

I think we should say that. I am, therefore, suggesting that the first sentence be followed with the following words--

Mr. Chairman: Could I ask you to keep it in general until we get to the specifics of each one of the points?



Mr. O'Connor: All right, if we are talking only in general, I will reserve my specific wording. If I could just follow on then and be finished.

The 34 areas in which the breaches occurred can be broken down into four general areas: (1) his failure to comply with respect to the forest management agreement; (2) his failure to comply with respect to his interest in United Sawmill; (3) his failure to comply with respect to his interest in Golden Tiger; (4) his failure to comply with respect to other holdings, the private holdings which, albeit, are relatively insignificant.

With regard the first three of those four--the forest management agreement, United Sawmill and Golden Tiger--it should be pointed out that he was in a position to benefit personally from violating the guidelines. The question then is: Did he benefit? As has been pointed out, he probably did benefit with regard to all three of those. The question then is: Was it an intentional breach to create the benefit for himself? Therein, we may part ways. Thus, the motion I intend to put would not deal with the question of intent. It would be a bald statement only that there are 34 respects in which he violated, they are divided into four categories, and there are three of those categories in which he did benefit.

14:30

Mr. Sterling: We are talking generally about the motion on this. I think much of what has been said before is important and echoes my sentiments to a great degree.

After July 9, 1985, I do not understand why the Premier's office allowed René Fontaine to remain as Minister of Northern Affairs and Mines. I just cannot believe it, after hearing all of the evidence in front of us. In my view, Mr. Peterson, through his staff, put Mr. Fontaine in an absolutely impossible position, a position where it was going to be an absolute certainty that he would run into problems with the conflict-of-interest guidelines.

Here is a man who owns shares in a public mining company and he is the minister of mines. Here is a man who has a significant interest in a lumber company in the area he represents and it is negotiating a major deal with the government of Ontario, a deal which is the first of its kind. It is a deal which has not been able to be consummated because of trouble with one of the partners. It was an absolute certainty that René Fontaine would run into conflict. How that was going to happen, we think we know most of it, at any rate, at this time. I am not sure we know all of the facts involved because we were trying to deal with it only piece by piece.

As I went into this and heard more and more facts, I got angrier and angrier with the Premier's office and how it dealt with Mr. Fontaine. They left him out there on his own. They gave him a ministry that was extremely busy. He was the only member in northern Ontario and, as Mr. Fontaine has testified, he had to give many speeches in a short period of time. He was obviously trying to enhance the political fortunes of the Liberal Party in the north and, therefore, was off on his way. He was given precious little help from the Premier's office and that staff. After Mary Eberts knew of his holdings on July 9 or before that date, I cannot believe or understand why they allowed this to persist; why they did not call him in and say: "René, there is a real problem here. There is a serious talk we have to have with three or four people in order for you to put your affairs in shape." I cannot believe what has happened and what Mr. Fontaine has gone through.

The problem that has arisen, of course, is because of his involvement. Without knowing what his intentions are--and I do not think we could ever discover what they are, but I would take for the moment that they were okay--he was put in a position where he had the potential to benefit on a number of occasions. He went into a meeting on August 27, 1985, that seems to have drawn little attention here. He goes into a meeting with Vince Kerrio, the minister, who himself should have known better. He knew that René owned an interest in United Sawmill. Cloutier comes in and he is talking for three sawmills. He is talking for Lecours, Levesque and United, the three who are involved with the FMA, and René stays for that meeting on that James River-Marathon road. The thing never went through but he certainly was in a potential to benefit to the tune of 10,000 cords for his United Sawmill company.

I do not know what Mr. Fontaine's sensitivity to it was. He had received a letter a month before telling him to stay away from such kinds of meetings where he would put himself in a potential problem. It was something that dragged on and, therefore, the potential was there for that to happen.

We saw a blank copy of a letter from Vince Kerrio to René about a meeting with his sister, who is the major shareholder in United Sawmill. That was another potential thing for something to happen. Then we saw the involvement with the Ministry of Natural Resources and René with regard to the forest management agreement.

I really believe René wanted it for the area. But the fact is, once that is signed--in spite of everybody's attempted denial that this is a benefit to the company--his evidence has been that United Sawmill is a Fontaine family business; a family business that has been passed along from generation to generation. What would better ensure this would be passed on to the next generation than a forest management agreement? It guarantees in perpetuity a wood supply for United Sawmill, along with the government's co-operation.

I cannot believe the lack of sensitivity of the Premier's office and the staff in putting him in that place--and the Ministry of Natural Resources, right up to the minister. I am not blaming it only on Mr. Kerrio, I am blaming it on the staff as well. For Mr. Kerrio to have had him involved in that meeting on the James River-Marathon road, to have sent him copies of correspondence, whoever that was done by, is totally unacceptable to me.

I guess it makes you suspicious of the meetings we do not know about or those which could have happened between whoever and whoever; I do not know. All those things were not discovered from anyone being forthright with this committee and saying: "Look fellows, I did this deal with the FMA as the MPP. I did have these meetings. It was wrong of me to do so but here are all the facts." We got those facts. Many members have talked about casting a fishing line; it was interesting that when we were accused of doing that, we seemed to catch a fish every time. If we had kept fishing, one wonders whether the lake would be full.

Mr. Martel: --be known as St. Peter.

Mr. Sterling: Yes.

I feel sorry in a way that Mr. Fontaine, as a new member and a new minister, was put into this position by more experienced people and that in the end it may hurt him politically for ever. The other part that concerns me, though, is how forthright he or his counsel or whoever was involved with this committee was in dealing with the FMA when we got into the hearings. As Mr.



Martel said, why did they not say something about the FMA in their statement? Why did they not explain the situation on the FMA?

Then there is the distinction that was drawn by Mr. Fontaine as to why he did not answer my questions about the FMA and whether or not he had any involvement in it. I find that a little hard to accept, notwithstanding his understanding that he did not answer those questions because he was an MPP for the area and he was dealing with Hearst Forest Management as an MPP and not as an party interested in that company. That is the part that bothers me most about it.

The last thing I will say is that I asked him a question about the Golden Tiger shares, which bothered me a little bit, about his worrying about whether or not he was involved with the sale of those shares at the maximum price. I think he probably did believe he had until the end of December to sell those shares. I would have thought that, as a man who was involved in that kind of business on several occasions--we know he is no babe in the woods in that--he would have probably known that and would have taken advantage of a rise in price. I would have found nothing wrong with that if that was his understanding on which it was based. But I found that answer odd in view of Mr. Martin's testimony.

The conclusion I come to about the motion is that to have any importance to these particular guidelines--which I think had scant attention by the Premier's office, and he has indicated that through his actions and motions during the past year--we have to be as specific as we possibly can about the breaches, the number of breaches, the possible benefits the minister could be involved in and the lack of attention by the Premier's office to the whole procedure and affair.

14:40

Mr. Villeneuve: About the forest management agreement, definitely I see where the Premier, having put Mr. Fontaine in as minister of Northern Affairs and Mines, creates an obstacle. Mr. Therriault told us that the FMA, had it not been for Mr. Fontaine and his involvements, would have been an a fait accompli.

Can you imagine the sense of guilt of this man, as the MPP, the man responsible, when he all of a sudden winds up being the obstacle. So I have to have a good deal of sympathy for Mr. Fontaine in that particular situation, in that he was placed there. The problem I have is that he continued to deny any involvement, and indeed the involvement was not of his making except that he probably had campaigned on the platform of "Hearst needs and will get an FMA" and all of a sudden he winds up being the obstacle to that FMA.

The Golden Tiger deal is definitely a problem as well. His personal friend, Paul Martin, president of that company, is having problems, personal problems. They speak on a number of occasions, and that was admitted to. It would only be normal and natural to say: "Paul, I know you are having problems at home, but how is the company doing? How are your flow-through actions happening?"

Why did he not admit that to us and tell us: "Look, I knew this was happening; I am not a stupid, incompetent businessman. I have got until the end of December. Why should I not wait and maximize?"

There is nothing wrong with that, in my opinion, and it would only be



human nature, but he continued to deny that and say they did not speak of it. I think he was placed in a very difficult position--a kind person, who was elected to represent a large area with people who are facing difficult economic times. He wound up being the obstacle. Definitely he is in conflict, but he is in conflict because of the situation he was placed in by his leader.

Mr. Morin: My colleagues--my Liberal colleagues and I--agree that Mr. Fontaine violated the previous conflict-of-interest guidelines. However, Mr. Fontaine's violation was without intent and was not motivated by personal gain, self-interest or financial benefit.

In Ontario the conflict-of-interest requirements with which we have to deal are laid out in a 1985 document. This is what René Fontaine had to comply with. He should not be judged on the basis of the deficiencies of the document requirements, nor on the basis of what is done in other jurisdictions. This is the jurisdiction we are dealing with. These are the guidelines we are dealing with. This is the situation we are dealing with.

It may well be that the guidelines should be revised or possibly be put into legislation. But that is irrelevant in determining the case before us. The question is, did René Fontaine breach the guidelines in the 1985 document? These guidelines are not exhaustive, nor could they in reality embrace all possible situations representing or suggesting a conflict of interest.

This is the same wording as in the 1972 conflict-of-interest guidelines set up by the former government. As the Premier testified before that other committee, the guidelines were drawn up to protect the public interest by preventing individuals in the cabinet--or anyone else--from making decisions where they put their private interest ahead of the public interest.

The question then is: Did René Fontaine put his private interest ahead of the public interest? In fact, we have seen no evidence of that. Since we are a quasi-judicial body, we must deal with the evidence and not with the suppositions or innuendo. The report of the standing committee on public accounts finds it unfortunate that the basket clause, after alerting a minister that the 1985 guidelines do not embrace all possible situations representing or suggesting a conflict of interest, does not give guidance or advice on how these situations may be identified and dealt with. That committee found the existing guidelines imposed neither adequate nor clear obligations and restrictions on ministers of the crown.

If restrictions and obligations are not clear, how can they be expected to be understood and followed? René Fontaine testified that he complied with the requirement that by December 31, 1985, he either sell or place in a blind trust his holdings so that he would not be said to be controlling, managing or otherwise dealing with those shares. He did what he was required to do.

Mr. Fontaine has testified that it was not his intention to breach the guidelines. Granted that in terms of disclosing what shares he owns, while there were certain shares he simply forgot, he has testified that he relied on others to act according to his wishes to make full disclosure. Regrettably, those others did not act in accordance with his desires. This is a situation with which perhaps one or more members of this committee can relate and sympathize.

In terms of the forest management agreement and Mr. Fontaine's conversation with the Ministry of Natural Resources public servants on the FMA, Mr. Fontaine has indicated that he believed he was acting not in his

personal capacity or on behalf of his own beneficial interest, but rather on behalf of his community and on behalf of the north. After all, the FMA is essential to the economic wellbeing of not only his company and other companies but also the area itself and its people. At no point did he seek to profit personally from any of his actions. Instead, he acted as a representative of his constituents, not as a minister, not as himself, but as an MPP.

On the question of Mr. Fontaine's credibility, we have to look not only at the situation per se but also at the person himself. Mr. Fontaine's history indicates a man of integrity, a man of compassion and generosity, a man devoted to the north and to the welfare of others. His actions were not done deviously; they were done openly. Mr. Fontaine's background is one of community service. He has devoted himself to the welfare of others, whether as mayor or as a northern member of the community.

What was to be gained from not disclosing his shares? What was to be gained from inquiring of Mr. Therriault what progress was being made with the FMA? I suggest to you he gained nothing for himself. His only concern has been for the north. It has been his interest, his fashion, his vocation.

There are those who have called René Fontaine negligent in his own personal management and compliance with the conflict-of-interest guidelines. One may indeed say he has been inattentive to his own affairs, but that was only because he was preoccupied with his ministry, concerning himself with matters that have brought benefit to the people of Ontario and, more particularly, to the people of northern Ontario. His own evidence before us has been consistent with a man who perhaps did not act as carefully as others might like but who did act to the benefit of others and not to the benefit of himself.

Where René Fontaine is at fault, we should find him to be at fault, but let us not condemn him for the deficiencies of the guidelines or for what he did not intend to do.

14:50

Mr. Chairman: We have been around the room fairly well. We may be ready to go to specifics.

Mr. Callahan: May I add something? I said I wanted to hear the balance of my colleagues. You will probably be relieved to hear that I have decided any legal background I have I will leave in the back seat of my car when I come in every morning. I think it hampers one, as opposed to being a benefit, except that, in reflecting on how something like this could happen, one has to go back to the event that took place, the transition of the government, which had not been done in 42 years, certainly not by the Liberals, a transition I think all of us agree was done relatively well.

Then I think we want to look at Mr. Fontaine. His background is in municipal politics. Those of us who come from the municipal level realize that, as a municipal politician, particularly as mayor of a place such as Hearst, you are able simply to wander around doing good and not being restricted in terms of rules of a restrictive nature. You are able to accomplish things for your constituents as you see fit.

Played against that background, apart from coming to council where there are questions of conflicts and so on, in essence, in going around, you are



trying to help your constituents. From what I heard of the evidence in these matters, it came out loud and clear that is what Mr. Fontaine was trying to do. He was still the mayor of Hearst, as near as I can figure. When matters of the FMA came up, it was a matter of dealing with it to try to resolve the issue, I do not think with any intent or even any thought of any effect it might have on him personally or financially.

Not too long after one enters this level of government, one comes to the realization that we have all given up significantly to be here. We all make significant contributions, and we give up a lot of things. Judging from the evidence I heard, Mr. Fontaine probably lost a great deal because of his entry into politics. He perhaps lost a great deal over this, including the image he had. I hope we can retain that for him.

I hope we can recognize that, within the frailties of having worked within a municipal level and then suddenly being catapulted into an entirely new environment, being required to produce a cabinet minister within a period of months and having to prepare for the awesome task of question period would be a difficult task, particularly for Mr. Fontaine, because we did not have instantaneous translation in the House and his first language is French. He has difficulty with English. Looking at this individual, it must have been a traumatic experience to be suddenly catapulted into the position of cabinet minister.

Then, Mr. Fontaine impresses me as a man who left the finer details of his business activities and everything else to people he trusted. He said to Mr. Gagné, "Here, you look after this." He said that after having been told by Ms. Eberts that she was not the final person to have the say, that eventually Mr. Wright would contact him and tell him the rules of the procedures. He was eventually contacted by Mr. Wright, who told him he had until the end of the year. So you had Mr. Fontaine leaving things to people whom he trusted while he got on with what he does best, as I am sure he did as mayor of Hearst: looking after his community.

In doing that, these things did not get done or, in getting caught up in this type of activity, he did overlook things that he has. That is a reasonable situation, and I think most of you have been very fair in terms of not equating to Mr. Fontaine any type of devious methodology for doing this.

The single thread that runs throughout this entire incident is the question of René Fontaine being placed, as Mr. Martel said, in a situation where he told us he did not have a deputy minister and he had to make all these speeches in the north--he was the only member from the north--trying to accomplish all these tasks by himself and still relying on these people, as he had done in his previous career, to look at these three or four pages of guidelines, which I think we all acknowledge are not clear. I tend to think that even the people in here who perhaps have some training in that field would have difficulty in sitting down with those guidelines and clearly knowing what they mean, particularly with the basket clause. The basket clause can encompass a whole myriad of possibilities, and it would be very difficult to anticipate all of them and to deal with them.

In the final analysis, one has to look at the entire fabric of the background of how this occurred. It was a new situation for this man. It was something that came upon him rather quickly. It was something where he had to react very quickly. It was something where he had to trust people on the other side--Mr. Gagné to look after these affairs with Ms. Eberts or with Mr. Wright--while he got on with the business of what he knew best how to do,



which I think is something he developed as the mayor of Hearst: looking after the people in the north whom he cared for.

It would strike me as a little odd if I were the Minister of Northern Development and Mines and my constituents called me up and said: "Mr. Fontaine, we are having a problem. This is an issue that has to be resolved to make this area work." What does he do? Does he say, "I am sorry"? Maybe that would have been the wisest thing, because he might not be here if he had done that and other things. He might have said to them: "I am sorry; I cannot talk to you. I will let somebody else talk to you. Goodbye."

The measure of the man, as I see it, is not that. The measure of the man is to react when he is asked to help, and that is exactly what he did. Whether you accept the care he had for Mr. Martin in terms of his alleged problems, Mr. Martin himself admitted that most of the time when Mr. Fontaine talked to him it was caring, concern about the individual as an individual. I suggest that is not something you get overnight; it is something that grows for a long time, and that is exactly what René has.

That is what we have. We have the swiftness of this whole thing, how fast you have to react in taking a person out of the municipal experience, where he did everything himself, and injecting him into this hotseat. There are many people in the Legislature who would have shuddered at being appointed a minister at that time and at having to face an experience that was totally alien to many of them. That is what happened, and we have to weigh this entire experience against that in deciding what did happen and why.

Mr. Morin: Can we take five or 10 minutes so we can work on a motion?

Mr. Chairman: You want to recess for 10 minutes?

Mr. Morin: Yes.

Mr. Chairman: Okay. The committee stands adjourned until 3:10 p.m.

Mr. Treleaven: We have a motion.

Mr. Warner: We have a motion that I have placed.

Mr. Martel: Is it not right, Mr. Chairman, that a motion to adjourn is not debatable?

Mr. Chairman: It is not debatable, and we have acceded to a request to adjourn for a few moments on other occasions without any problem. I do not see the difficulty.

Mr. Warner: All right.

Mr. Sterling: You go out, and then you come back and find out that the rules are not the same. I am just trying to clarify before they go out. I do not mind them going out, but let us make it clear where everybody is before we go out.

Mr. Chairman: In case there is any question, the next part of the process would be to move through Mr. Warner's motion on a sentence-by-sentence basis. We have been given notice of two amendments so far that will be proposed as we go through.

To equate it, we have had a kind of second reading of it, and we are going to go through it and deal with it now on a clause-by-clause basis. For your interest, I will call them in order. Where the amendment indicates it would be inserted after the first sentence, that is where I will deal with that amendment, and I will place it or any other amendments members may have in that manner.

Ms. Hart: It might save the committee some time if we had these few minutes to do the motion. Then we will not waste any time by coming back to it.

Mr. Chairman: Okay; that is fine. We will recess until 3:10 p.m.

The committee recessed at 3 p.m.

15:10

Mr. Chairman: We are ready to resume.

Mr. Callahan: Mr. Chairman, we are having circulated by the clerk proposed amendments with reference to Mr. Warner's main motion. I recognize that you have before you already an amendment circulated by Mr. O'Connor. I suppose it is a question of how they are to be dealt with.

In viewing Mr. O'Connor's amendment, it appears to be more than an amendment; it appears to be a total change. In that respect, I bow to the chairman's ruling as to how he views it and how we proceed with it. We place them before the members to be able to deal with them as we go through Mr. Warner's motion clause by clause..

Mr. Chairman: I am going to caution you now, as I did this morning, that unless you want to have repeated delays and adjournments, you had better give us written notice of motions you intend to place. I cannot make you do it, but I am going to make the pitch to you that you will get into problems one way or another. If you persist in presenting us with motions, amendments or even wording changes, people are going to demand time to consider them; it seems to me that is quite reasonable. If you give us copies of your amendments in advance, the argument that we have to delay to consider these matters becomes less and less listenable, I guess would be the word.

I have looked at the two copies of notices of motion that I have. One seems to be in very little question, except perhaps for some grammatical problems. It is well within the purview of the main motion. The larger one, if I can refer to it in that way, has four points. I guess you can fill in some of the blank spots in debating around the motion. It seems to me to be within the framework of Mr. Warner's motion. The problem I have is that you say something such as, "Mr. Fontaine was in breach of the conflict-of-interest guidelines in 34 respects."

You can put the motion if you want, but to tell you the truth, if you say that somebody has 34 violations, at the very least for everyone else's consideration you deserve to spell out the 34 violations. You may do that in the course of debating the amendment; so I will listen to it with some intent. However, blanket motions of that nature are going to be difficult for the committee to handle. It is in order, but I think you are going to have trouble with it because of the way it is drafted.

I guess we are now ready to proceed.

Mr. Martel: I serve notice that I will move an amendment--I have it partially ready now--before we go beyond the section I would like to entitle 2b. It deals with the forest management agreement because it is not dealt with clearly anywhere else. I hope to have it ready, but we have not indicated it anywhere except possibly in section 2a in a reference to United Sawmill. We have to be specific somewhere. I worry about the number, 34, that you worry about too. It seems to escalate the whole thing. If I am going to look at the issues, I will look at two or three key ones. One of the key ones is the FMA and it is nowhere in there. I want to serve notice. I have it drafted roughly, but I have not yet managed somehow to kick the Ministry of Natural Resources in the head for their involvement.

Mr. O'Connor: With regard to the question of 34, how I anticipate that being included in the report is not in the motion itself, but is by way of an appendix or an addendum to the report. Perhaps the motion could make the reference, "34 respects, as set out in appendix 1," or something. I can read the 34 if you wish. I have a copy of the document that we--

Mr. Chairman: I suspect that at the time we put your amendment, people will ask you to do that. Are there any more comments before we begin?

15:20

Mr. Warner: I have just two things. I ask the chair to lend its normal, good, gracious approach to these deliberations. We are at the stage where as a committee we can be very productive if we are allowed a bit of time to bandy about the wording for particular sections. In the normal procedure of placing an amendment, you are either going to amend it further or vote on it. If we can be permitted a bit of latitude, I think we can come up with a wording that will be agreeable to all three teams.

For example, on the point you raised, which was one that was of great concern to me, I noted that included in the number 34 was some double-counting of items. One of these was simply a single share in a co-op, which, quite frankly, is not particularly important or relevant to what we are doing.

On that basis, the Conservative team was prepared to make some alterations and has come back with a new wording which appears to me quite good. If we work in this type of atmosphere, we can come up with wording which will be agreeable to all three teams, but it requires a bit of latitude from the chair to accomplish that.

Mr. Chairman: You will get lots of latitude. Just do not use the word "consensus."

Mr. Warner: Did you hear it from my very lips? I read the papers too.

Mr. Sterling: On that matter, in terms of the first amendment to Mr. Warner's motion, I have had the clerk go out with a redrafted copy of that motion, in terms of both of those motions, to clean up the language associated with the second. I have dealt with both of them and have copies of both of those. As soon as she returns, everybody will have a copy of that.

Mr. Chairman: Okay. Are we ready to proceed? To assist you a bit, because we are going on a line-by-line basis, it will be possible to work back and forth. For example, several of the proposed amendments that I have in front of me use wording which is very similar and which appears to me to state



essentially the same thing. I take it that movers of the motions and amendments will receive them in a friendly manner. If there is no substantive change and the wording seems to accommodate other people, you will facilitate things simply by accepting it as a friendly amendment. We can proceed that way.

On the first sentence in Mr. Warner's motion, which I will read to you--you have a copy of the motion and it will help if you can follow along--it seems that no amendment substantially alters that. It reads, "Mr. Fontaine violated the Premier's conflict-of-interest guidelines."

I am going to put that to you in just that form. Shall that sentence carry?

Agreed to.

Mr. Chairman: It carries unanimously. Now we come to the stage where we have the first amendment. I am having a little difficulty shuffling the papers here now.

Mr. O'Connor moves that the following be added to Mr. Warner's motion under point 1, following the first sentence:

"Mr. Fontaine was in breach of the conflict-of-interest guidelines in three major respects and in many minor respects. The major breaches can be grouped into the following categories:

"1. Failure to comply with respect to his interests in Hearst Forest Management Inc.;

"2. Failure to comply with respect to his interests in United Sawmill;

"3. Failure to comply with respect to his interests in Golden Tiger Mining Exploration Co. Inc.

"In these three categories, Mr. Fontaine was in a position to potentially benefit personally from his violations of the guidelines."

It seems to me that the amendment fits at this juncture and that the amendment is in order. You may have a little argument about that, but I think, in general, that having said that there was a violation of the guidelines, it would generally be held that you may choose to spell that out a little more, and this is one way of spelling it out. Whether you agree with it is another question, but it seems to me that the amendment is therefore in order.

Is there any debate on the amendment? All right. Ready for the question? Those in favour of that amendment? Those opposed?

Amendment agreed to.

Mr. Martel: Could we hear the reason that people are opposing something that is pretty factual?

Mr. Chairman: They do not have to.

Mr. Martel: No, I know we do not have to, but it--

Mr. Chairman: It is not too productive to listen to the argument after a vote. That amendment carries.

The next amendment--

Mr. Warner: I have--

Mr. Chairman: Just hold on a minute. I am trying to figure out where this would go. After the second sentence. All right.

Mr. Warner: It is before the second sentence. I have amended it.

Mr. Chairman: You want to put this amendment before?

Mr. Warner: Yes. This is a friendly amendment.

Mr. Chairman: Okay. This would replace your second sentence. Is that right?

Mr. Warner: No. It just moves it.

Mr. Chairman: Okay.

Mr. Morin: What are we talking about here?

Mr. Chairman: This is a notice of motion, and I will read it for you: "That the following be inserted under point 1 of Mr. Warner's motion, after the second sentence." That would now read "before the second sentence."

I take it that this is Mr. O'Connor's motion, or is it Mr. Sterling's?

Mr. O'Connor: It is Mr. Sterling's.

Mr. Chairman: Mr. Sterling moves that the guidelines are the code of conduct established by the Premier for his cabinet and it is his responsibility for their enforcement.

Mr. Warner: Period. Then my sentence would follow. "Neither the Premier nor his office enforced the guidelines."

Mr. Chairman: You have two sentences, if I could read it again. After that second sentence, the words would be inserted, "The guidelines are the code of conduct established by the Premier for his cabinet and it is his responsibility for their enforcement." That is the amendment. Any discussion on it?

Ms. Hart: Mr. Chairman, on a point of order, not discussion: In the amendment which I will propose, if you look at the first paragraph of the proposed notice of motion, the second sentence dealing with Mr. Fontaine's violation follows logically at this stage because then you go on. Mr. Sterling's notice of motion talks about a different subject matter, whereas at the end of the motion that was just passed, we are talking about Mr. Fontaine. It seems to me that, logically, the second part of that, starting with "However, Mr. Fontaine's violation," would logically follow now, as opposed to after Mr. Sterling's.

Mr. Chairman: You are making an argument just in terms of order.

Mr. Hart: Yes.

Mr. Callahan: That is right.

Mr. Chairman: It would assist me a great deal if that is what the amendment said. It does not say that.

Mr. Treleven: I agree with that.

Mr. Chairman: With the agreement of the committee, I would be happy to place that question. To get it clear, the amendment Ms. Hart wants to place begins with the word "however." It reads, "However, Mr. Fontaine's violation was without intent and was not motivated by personal gain, self-interest or"--I take it the word you want is "financial benefit."

Ms. Hart: Yes.

Mr. Chairman: "Mr. Fontaine's situation was compounded by the absence of a comprehensive process to monitor the implementation of the guidelines."

That is the amendment that is before you. Any discussion on the amendment?

Mr. Martel: Do you have any idea what the first paragraph is going to read, if we are going to be--

Mr. Chairman: I would not be too worried about it. Let us get this down. If we have to do a little editing, we can do that afterwards.

Mr. Martel: I do not mean that. Does one conflict with the other? That is what I am saying.

Mr. Chairman: No.

Mr. Martel: Notice of motion by the--

Mr. Chairman: No.

Mr. Callahan: No. It expresses the intention of everybody.

Mr. Warner: I have a little problem with this. It actually speaks not just to this wording about being not motivated, but to some of the things raised by the Conservatives earlier. I must keep in mind that when Mr. Fontaine came before us in July, he was under oath. He came forward as a member of the general public and he was under oath. When he appeared before us last Friday to answer questions that had been raised, he came before us as a member of the assembly--

Mr. Chairman: Still under oath.

15:30

Mr. Warner: Yes, and therefore the testimony is accepted at face value unless you can prove beyond a reasonable doubt that it should not be accepted at face value. If we do that alone and do not get into a guessing game about motivations, we will be better off.

Some will claim that a person is motivated in one way and some will claim he is motivated in the opposite direction. Unless you see something in print in the statement by Mr. Fontaine, I would just as soon we leave the question of motivation alone. I would feel far more comfortable judging on the



material we have in front of us and not trying to second-guess what was going on inside René's head.

Mr. Callahan: I understand what my colleague is saying, but in my recollection of at least three of the members who addressed this committee this morning, in fact, it was the case that there was no intent to gain or whatever the wording is, "not motivated by personal gain, self-interest or financial benefit." That is the light in which this amendment is submitted.

I submit that leaving a bald statement, such as the one which has just been passed in the motion by Mr. O'Connor, does not show the whole picture, as least as expressed by Mr. Martel, Mr. Warner, and even, although I may be mistaken, Mr. Sterling. It is not unreasonable that it follows logically on the motion that has already been passed.

Mr. O'Connor: I have a great deal of difficulty, as does David, in getting inside René's head and determining exactly what his motivations were and what was going on in there. If we want to get into an argument on this, I would prefer that those sentences be left out, because I have some grave suspicions and grave doubts, as I indicated earlier, about the evidence taken in its totality, particularly that of other witnesses who indicated that in his position he had to have known some of the things he says he did not know.

I am not arguing that a sentence to the opposite of what is there should go in, saying he did have intent and was motivated by personal gain, although I think a good argument can be made in that regard. Similarly, we have difficulty in determining exactly what his intention was. I am content to leave it out. On the other hand, I do not think we as a committee can unequivocally state that he was not motivated by personal gain.

All we are able to do at this point is to make a bald statement, as you characterize my amendment to the motion, of the fact that there was a conflict of interest and that it was in certain areas, without trying to go further and characterize it. I would be very uneasy about that kind of delving into the motivation, particularly because--Bob, you will understand this--of the nature of the evidence we heard.

We heard evidence that was hearsay, unproven in a lot of respects, and that is dangerous ground for us to venture upon. I made my argument many times in regard to how the evidence should have been received, and I will not do it again. If you want to get into motivation, as a judge or a court does, it should be done in a judicial manner, and we did not do it.

I think, therefore, we are safest in leaving it as it is, with a statement of the fact that conflicts occurred and which areas they occurred in and the fact that there was the potential for gain to occur or to occur in the future.

Mr. Martel: What worries me is, if we start to try to read people's minds, we might want to include--and I do not want to--why he held on to some shares. There was agreement that he tried to cut his losses. Does that make him trying to avoid the conflict-of-interest guidelines? We decided to leave that reference out totally. Last week, when Martin was in, if I understood correctly, Martin thought he was trying to cut his losses, get to the best time to trade and so on, knowing there had been an underwriting that would increase the value.

We are being judgemental in the sense that we are reading his mind at

this stage of the game. The danger is, if you put in one, someone is going to decide you have to put in the other side and say he was trying to feather his nest. I said this morning I did not think he was; that is my own personal conviction. I do not think he got into Hearst Forest Management with the intent of changing the terms; he did not. He got into it because of--and I will have a motion on its way upstairs in a few minutes--the stupidity of somebody from the Ministry of Natural Resources in holding a meeting and telling him that the forest management agreement was not going ahead.

Then you can ask the logical question, "Why did he get into Hearst?" It is going down the tube, according to Cloutier. The whole agreement is going down the tube if you cannot get everybody on side. René got involved.

I do not think he did it for personal gain; he needed it for his area. However, it raises the question. If you do it on one side, the spectre rises on the other side, the countervailing position. Why did he get involved? You can open a bigger can of worms by trying to insert the question, because it is judgemental. I worry about trying to put that in; the whole of forest management could then be questioned very seriously.

Not only was Cloutier involved--he triggered it and got Fontaine because he thought René held the answer--but the Minister of Natural Resources (Mr. Kerrio) also contacted René. I have no way of proving it, but I am convinced Natural Resources did not do so without a reason. I do not know what the hell those clowns were doing phoning him to give him a briefing of what was going on with the forest management agreement. That is unusual, particularly as they all knew he held an interest in one of the companies. They were really stupid.

You know what is going down the tube. One could say it was all done purely as the member for the area and, conceivably, it was. On the other hand, one could say: "Wait a minute. He has a pecuniary interest that could be going down the tube." I guess that is why I do not want to make a judgement call in that respect. I hope I am explaining clearly to my friends across the way what is concerning me.

Mr. Callahan: I understand what you are saying, but it seems we have already been judgemental in many of the statements that have been made by members of the committee. To go back to the very basis, we are judging a fellow member of the Legislature. An amendment has been passed that says he might benefit personally. I think that to have one, you have to have the other. Otherwise, a nonjudgemental statement comes from this committee, even though members have said they do not believe he intended to gain financially from it. For that reason, I feel it is incomplete.

Mr. Morin: What Mr. Callahan is saying is that on Friday Mr. Fontaine did say he was not motivated by self-interest or that he wanted to gain financially. He did say that. What Mr. Warner is saying is that he appeared as an MPP under oath and he is an honourable man. I respect and accept what he says.

If we start doubting the integrity of each member in the House, thinking they do not speak the truth, that is very serious.

15:40

Mr. O'Connor: Did Mr. Martin lie? He was under oath.

Mr. Morin: I am not talking about Mr. Martin--one issue at a time.



Mr. Fontaine said he was not motivated. I believe him. So did my colleagues believe him.

Mr. Chairman: Any further debate on the matter?

So we have amendments which would insert the words: "However, Mr. Fontaine's violation was without intent, was not motivated by personal gain, self interest or financial benefit. Mr. Fontaine's situation was compounded by the absence of a comprehensive process to monitor the implementation of the guidelines."

Mr. Martel: Could I ask my friends if we could put that in somewhat a different form? I have not thought of the wording yet, and I do not want to be put in the position of voting on it in a way I do not want to. Could we not put that in a positive sense indicating what he did do?

He moved in his own right, as he saw, to ensure that the forest management agreement was achieved for his area. In those terms, that does not make it judgemental, but it takes away any implication one way or the other, in a fair, positive way, of saying that he was doing it for his own area, and he did not have anybody to help him out of the Premier's office or anywhere else.

That makes it more positive about what he was attempting to achieve, without trying to read motives into his mind. I do not want to get hung up having to vote against that sort of thing. I want to be able to vote for something that is positive and says, "Look, he did it because he was trying to help his area and he did not have anyone helping him."

Mr. O'Connor: I think by saying something like that, you are doing exactly what we are trying to avoid, and that is imputing motives--

Mr. Martel: I am not imputing a motive.

Mr. O'Connor: --imputing a positive motive that he was acting in the best interests of his area. He may well have been doing that, but how do we get around the fact--and this is a fact, Elie--that by so promoting the FMA he is acting in his own personal interest? He stands to gain personally.

Mr. Martel: All right, Terry, I have got a section that is coming in a few moments, that because we did not deal with the FMA anywhere in there--and my wording is not the best because I did it quickly; if we could just hang on a moment--because it then deals with that and says he held an interest in a company and he had discussions with the Ministry of Natural Resources, he had discussions with Cloutier, and because he had an interest he should not have been involved in those discussions.

I also said "if MNR should not have initiated any discussions." Personally, I feel more comfortable saying, "Look, he did act as a member for his own area. He should not have, as the minister."

I think that is what we have got to say. That is fair to him. We have all gone to somebody at some time. Unfortunately, when you are a minister of the crown your position is a hell of a lot different than when you are just an ordinary backbencher from the boondocks of Sudbury. You have to be fair and say that. On the other hand, you have to say, "Look, he should not have been involved," and that is where the conflict arises. That is why I want to put in a section 2(b). I think that answers your question, Terry.



Mr. Callahan: Would you be satisfied with section 3, as the chairman has put forward, in our amendment?

Mr. Chairman: The difficulty I am having here is that all I can do is accept amendments as they are proposed. If you want to discuss them among yourselves and sort out some wording, as has happened already, we could stand sections down until you think you have some compromise. But I cannot do any more than put questions that are moved by means of motions.

Interjection: You said no compromise.

Mr. Sterling: In my view, there are three kinds of conflicts. There is conflict where you are, as the Premier has stated, in a technical conflict where there is no benefit, no potential benefit, and therefore it is perhaps a matter of sloppy business practice or a lack of care to comply with the guidelines.

The second kind of conflict, in my view, is more dangerous. That is where there is a potential benefit to the individual involved. If there is a potential benefit to the individual involved, he or she should be that much more careful about how he or she is dealing with that particular situation that arises.

The third and the more serious type of conflict would be one where you could prove the intent; that the member or the member of cabinet was trying to act in a certain manner to benefit personally from the outcome of that decision.

I think in three cases, as has been outlined, the second seriousness is there in this issue, and it is stated as such. I do not know Mr. Fontaine's intent when he was in those meetings. I do not know how he divorces himself from the fact that what is good for Hearst is good for René Fontaine and his family. Like it or not, that is the way it is, and he was put in that situation by the Premier. That is the way it is broken out.

I think the other part waters it so much that it fails to point out the seriousness of those three situations.

Mr. Warner: I am going to have to vote against this. First, for the reasons I gave earlier, I do not want to get into this little game of trying to guess motivations. I know what René said, and I have accepted that at face value because he is an honourable member and that is the way you are supposed to proceed.

It was my intention in section 1 to deal very straightforwardly and very succinctly with the main question. The main question was: Did he break the guidelines? I have said that he did. I said, secondarily, that the guidelines were not enforced by the Premier or by his office. It is short and sweet, and it may not be particularly sweet to the Office of the Premier, but that was my succinct message.

If you want to deal with how Mr. Fontaine responded to the particular situation, especially in the case of the FMA, that might be more appropriately addressed in new clause 2(b), which will be proposed by my colleague.

Section 1 is the most important question. Did he break the guidelines? Yes. Were the guidelines enforced by the Office of the Premier? No. We have listed some major areas where there are conflicts and so on, and that is fine;

but I cannot accept this proposed amendment. Sure as shooting, and the chair will know this, if this is accepted, and Mr. Martel's argument is right, then why would not some other member move at the appropriate time a wording that suggests the opposite kind of motivation? I do not think that type of exercise does any of us any good in the long run, and I would just as soon stay away from it, deal straight with the facts and leave the head games to somebody else.

Mr. Chairman: Are you ready for the question? Ms. Hart has moved an amendment.

Mr. Martel: Does she want to withdraw the amendment?

Ms. Hart: Perhaps I could speak for a moment. Mr. Martel suggested he might be satisfied with some slightly different wording not dealing with motivation but dealing with the best interests of Mr. Fontaine's constituency.

Mr. Martel: Yes. I said I was prepared if you wanted something in that little section. I would hope it would be straight-positive in the sense that he met as the MPP for his area.

Mr. Chairman: Could I offer a suggestion?

Ms. Hart: Please do.

Mr. Chairman: One of the problems we are having is that in inserting a new sentence in the middle of something else, it is getting very complicated. It would be simpler and more straightforward if you proposed adding new sections to it rather than trying to amend this. In other words, if you felt moved to move an amendment such as this and you did so by way of a motion that we deal with it at the end of these, it would be easier for the chair to handle, and I think easier for the members to consider, rather than amending as we go though, and we might be able to reach some agreement with other members that the point actually carried.

15:50

If you want, you have the right to move amendments in this way, and you have put it before us. Having had the argument, we are now ready to do the vote. I will not be too sticky about bringing matters in for the second time, but I remind you that if the committee has dealt with the matter substantively, we are not in a position then to deal with a second amendment later that deals with the same essential matter. You may be able to provide yourselves with an opportunity by avoiding the temptation to do this, and I know what you are doing.

Mr. Warner: Force a vote on this one and then bring it back.

Mr. Callahan: Can we table this and jump down and deal with the other ones?

Mr. Chairman: We could simply stand this amendment down, and if you seek some broader support, you might be doing some wording. I am suggesting to you that rather than amend Mr. Warner's motion quite so extensively, it would be simpler and a little more straightforward to add sections to it than to amend the existing sections. I am a little concerned that the flow of language here is going to be somewhat halting.

Mr. Callahan: Can we stand that down, then, and go on to the other items?

Mr. Chairman: Ms. Hart could do that.

Ms. Hart: Perhaps you will do that for me, Mr. Chairman.

Mr. Chairman: We will stand that amendment down.

The next amendment I have is moved, I believe, by Mr. Sterling.

Mr. Sterling: Yes.

Mr. Chairman: This is one that would read, "The guidelines are the code of conduct established by the Premier for his cabinet and it is his responsibility for their enforcement."

That is the amendment that is now before you. Is there any debate on the matter? I will read it for you one more time: "The guidelines are the code of conduct established by the Premier for his cabinet and it is his responsibility for their enforcement."

Mr. Callahan: Mr. Chairman, on a point of order: It would seem that Mr. Warner's paragraph 4, which I suppose we are eventually going to vote on, contradicts the overall content of that motion in that line 2 goes on, "Neither the Premier nor his office enforced"--

Mr. Chairman: That is not before you. One of the tricks of the trade in here is that you have to listen. When I read an amendment, that is what is before you. You are wiping out lines and things like that, and that is the reason I am reading these things for you: so you will know the exact wording.

For the third time, the amendment before you now is this: "The guidelines are the code of conduct established by the Premier for his cabinet and it is his responsibility for their enforcement." Period. That is the amendment that is now before you. Is there any debate on the matter?

Those in favour of the amendment?

Any opposed?

Motion agreed to.

Mr. Warner: Mr. Chairman, on a point of order: Would you or the clerk be kind enough to read what we have passed so we will know precisely what wording we have agreed to at this point?

Mr. Chairman: I knew some jerk would do that. I will read it:

"Mr. Fontaine violated the Premier's conflict-of-interest guidelines. Mr. Fontaine was in breach of the conflict-of-interest guidelines in three major respects and in many minor respects. The major breaches can be grouped into the following categories:

"1. Failure to comply with respect to his interests in Hearst Forest Management Inc.;

"2. Failure to comply with respect to his interests in United Sawmill;



"3. Failure to comply with respect to his interests in Golden Tiger Mining Exploration Co. Inc.

"In these three categories, Mr. Fontaine was in a position to potentially benefit personally from his violations of the guidelines.

"The guidelines are the code of conduct established by the Premier for his cabinet and it is his responsibility for their enforcement."

Mr. Warner: There should be another sentence, "Neither the Premier nor his office"--

Mr. Chairman: Just wait a minute. I will put it to you as simply as I can.

Mr. Warner: That is why I asked.

Mr. Chairman: Finally, we come back to the latter part of Mr. Warner's wording. It reads, "Neither the Premier nor his office enforced the guidelines."

Mr. Callahan: I suggest that clause, either in that or in the proposed amendment by the Conservatives, flies in the face of item 4.

Mr. Treleaven: Mr. Chairman, on a point of order: We are dealing with item 1 or item 2, whatever. Item 4 is off in the future and may never arrive.

Mr. Callahan: That may be, but if it passes, we have a real difficulty in that they do not--

Interjections.

Mr. Chairman: We are tough in the trenches. We will deal with those difficult situations.

Mr. Warner: A second question: When we come back tomorrow morning, would it be possible to have a reprint of what we have passed?

Mr. Chairman: Yes.

Mr. Warner: Thank you.

Mr. Chairman: Is there further debate on Mr. Warner's second sentence?

Mr. Callahan: I know we have already stood down item 1, but could I suggest a way around it would be to stand that down and go to item 4 and see if item 4 does catch it?

Mr. Chairman: No.

Mr. Treleaven: It is a fundamental part--

Mr. Chairman: We will go line by line in the order in which the motion was presented.

Mr. Warner: It will all fall into place.

Mr. Chairman: Is there any further debate?

Mr. Warner: Which one are we dealing with?

Interjections.

Mr. Chairman: The question before you is, shall these words be included, "Neither the Premier nor his office enforced the guidelines." All those in favour of the motion?

All those opposed?

Mr. Warner: I request a recorded vote.

Mr. Chairman: You can have a recorded vote if you want.

Mr. Callahan: A vote has already been taken. I would not stand on that.

Mr. Chairman: All those in favour of the motion?

Ayes

Martel, O'Connor, Sterling, Treleaven, Warner.

Nays

Callahan, Hart, Morin, Newman.

Mr. Chairman: Section 1, as amended, will stand. Tomorrow we will try to provide you with a new version, a clean version of the things that have carried, amendments and things of that nature.

Are we ready for item 2?

Mr. O'Connor: It is two minutes to four o'clock. I understood we were working until four every day. In that event, I suggest we wrap it up now.

Mr. Chairman: Is it your wish to adjourn? Let me point out that we will adjourn now. I will ask you to assist as much as you can in terms of giving us notice of motions you wish to put. If you have something that could be done in the form of an additional section, it will be cleaner to do it that way rather than to amend it. It is difficult to catch the paper flow back and forth, and it would give you an opportunity to deal with Mr. Warner's motion and to proceed to get some agreement on what other parts should be put in.

The committee adjourned at 3:58 p.m.

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY  
ALLEGED CONFLICT OF INTEREST  
TUESDAY, SEPTEMBER 23, 1986  
Morning Sitting





STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

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Turner, J. M. (Peterborough PC)

Substitutions:

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O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Tuesday, September 23, 1986

The committee met at 10:19 a.m. in room 228.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: We can get started. For your information this morning, we have circulated the amended motion that carried yesterday, just so that you could see it in its final form. Those motions have carried, have been dealt with by the committee and will stand as part of the report.

This morning we will proceed with Mr. Warner's motion, part 2. Before we begin, I want to draw to your attention that you got an updated draft of the first part of the report at the end of yesterday's session. We still have some timber licence dates to include in it, but basically that is the draft of the report as it now stands. At the end of the day today, if we have those licence dates, we can insert them; so maybe we will withhold the motion on approving that until we have those dates and can put them in.

The next order of business will be to deal with part 2 of Mr. Warner's motion. I do have some amendments, which I have just received. I am trying to read them as quickly as I can. It seems to me that they follow in a sequence of 1, 2 and 3 and that they would go at the end of--

Mr. Sterling: As a point of explanation, it is basically an attempt by our caucus to put part 2 in the same form as part 1 is in in dealing with the three major matters of Hearst Forest Management Inc. and the conflicts with the guidelines, number two dealing with United Sawmill and the conflicts with the guidelines, number three dealing with Golden Tiger and the conflicts with the guidelines and number four dealing with the minor ones.

Mr. Chairman: Okay. I will deal with them in the sequence in which I received them. I have two amendments that were tabled with the committee yesterday. Ms. Hart, are you moving these amendments?

Ms. Hart: Yes.

Mr. Chairman: Ms. Hart has one and Mr. Martel has one. When we have dealt with those, we will then move to the four amendments that have been proposed to this section by Mr. Sterling.

It would appear to me that all the proposed amendments would fall subsequently to Mr. Warner's part 2. Is there any disagreement with that? In other words, we can deal with his part 2 and then deal with all the amendments as additional sections, if you like, to that part. Is that an agreeable way in which to proceed?

Okay. Is there any debate on Mr. Warner's motion as printed, part 2? We are dealing with the motion as proposed by Mr. Warner. It is identified as part 2.

Mr. Sterling: Is it Mr. Warner's desire to leave that part of his motion in place in that form?

Mr. Chairman: Yes.

Mr. Warner: Yes.

Mr. Chairman: That is his motion. If we deal with this, we have subsequently a motion from Ms. Hart that deals with this section, a motion from Mr. Martel and four motions from Mr. Sterling. We would deal with them in that order.

Mr. Warner: I cannot find the one from Ms. Hart.

Mr. Chairman: For starters, we can deal with your motion as printed, Mr. Warner. Any comment or debate on that?

Mr. Treleaven: Yes. The Liberal amendment--

Mr. O'Connor: We are not dealing with that.

Mr. Treleaven: I know. The Liberal amendment is a change. It does not say it. It just says, "Amend paragraph 2 as follows," and it gives a different interpretation. I think what they really mean is, "Delete lines X, Y and Z and replace them with the following."

Mr. Chairman: It does not say that. I am going to rule that the amendment is in order and it will be dealt with as an additional passage to part 2.

Mr. Treleaven: All right; that is your ruling. There is not a lot of logic in it, but all right.

Mr. Chairman: If you want to get particularly brilliant about it, I would say that the four motions presented by Mr. Sterling run contrary to the spirit of other amendments that have been proposed. If you want me to rule them all out of order, I would be happy to.

Mr. Treleaven: No. Those are add-ons; this is a change.

Mr. Chairman: No. Sorry.

Mr. Treleaven: There is no reason for me to carry a brief for them.

Mr. Chairman: On Mr. Warner's motion.

Mr. Warner: My own wording troubles me slightly. I want to make sure this is absolutely accurate. There is no problem with the first sentence: "Mr. Fontaine failed to disclose all his holdings as required." We all know that. "Golden Tiger continued to apply for mining grants and tax grants under OMEP and United Sawmill continued to receive timber cutting licences while Mr. Fontaine was Minister of Northern Development and Mines."

The impression left with this is that he was the minister responsible for the issuance of the mining grants, and that is not true. The responsibility shifted from one ministry to another. At the time when the mining grants were first approved, unless I am mistaken--if I am, please



correct me--he was Minister of Northern Affairs, but the mining grants were issued through the Ministry of Natural Resources, and so were the timber licences.

Mr. Chairman: To clarify it, are you interested in a friendly amendment that would identify that?

Mr. Warner: Yes. I need some wording that more clearly identifies this. The impression left by this statement is that somehow he had direct control over the issuance of those mining grants and timber licences, and that, of course, is not true. That is not the impression I want to leave. The wording needs a bit of cleaning up.

Mr. Chairman: Can someone assist us with the wording?

Mr. Warner: Maybe counsel could assist.

Mr. O'Connor: I do not know whether this assists in any way. I know we are not dealing with our four amendments at present, but if you glance through them, those amendments are an expansion, an exemplification of the thoughts set out in the shorter version that Mr. Warner has proposed. Each page deals with each of the four areas of concern that we identified under paragraph 1. It may satisfy Mr. Warner's concern about how to characterize the extent and quality of the conflict of interest in each of the four areas if we go directly to those four amendments.

Mr. Warner: No, it is not helpful.

Mr. Chairman: Maybe I can assist. What about a simple statement that says, "These tax credits and cutting licences were administered by the Ministry of Natural Resources"?

Mr. Warner: In that case, you could insert it after the word "licences."

Mr. Chairman: I suggest it would be clearer to insert at the end of your second sentence a third sentence that says, "These mining grants and cutting licences were administered by the Ministry of Natural Resources."

Mr. Warner: All right. It makes the meaning clear. Do you want me to move that?

Mr. Chairman: I will read it now. Mr. Warner's motion would now read:

"Mr. Fontaine failed to disclose all his holdings as required. Golden Tiger continued to apply for mining grants and tax credits under OMEP and United Sawmill continued to receive timber cutting licences while Mr. Fontaine was Minister of Northern Development and Mines. These mining grants, tax credits and timber-cutting licences were administered by the Ministry of Natural Resources."

10:30

Mr. Sterling: That is not right.

Mr. Chairman: It is factually correct.

Mr. Sterling: No, it is not factually correct.

Mr. Chairman: What is incorrect?

Mr. Sterling: The Ontario mineral exploration program was transferred over to the Ministry of Northern Development and Mines at some time prior to actually that granting in April or March. Mr. Tieman, was it?. At that time in December, OMEP was certainly within his ministry.

Mr. Warner: Perhaps research can help us. I understand that the transfer of responsibility took place April 1, 1986, but I am just going by memory.

Mr. Eichmanis: The difficulty is you are talking about the ad hoc date and the official date, as I recall.

Mr. Chairman: You do not say anything about who administered them. Would it better simply not to provide any additional words there? There was an inference to be drawn, if someone wanted to pursue it. The information about who administered it and when is available. It is not required that you put it in.

Mr. Warner: Perhaps you should ask other members. When I reread this, it appeared to me there was an inference that Mr. Fontaine somehow was responsible for the issuance of the cutting licences and the tax credits in OMEP and, of course, that is not factually true. Maybe I am misreading it. Maybe somebody else would have--

Mr. Chairman: Who administered the programs is not addressed in your motion. If you want, you can do that. I would say it is not necessary to do that.

Mr. Warner: Could we leave it the way it is?

Mr. Chairman: If you want.

Mr. Warner: Is it all right to ask other members their opinion?

Mr. Sterling: I guess there are two ways to look at it. If they were administered by his ministry, it would be deemed that there was perhaps a more serious breach. I think there is a breach regardless of whether they were administered by him or by another ministry.

Mr. Warner: Yes, true.

Mr. Sterling: Under OMEP, Golden Tiger continued to seek OMEP grants after April 1, 1986, when he was still Minister of Northern Development and Mines.

Mr. Warner: That is true--

Mr. Sterling: You have to make the distinction of--

Mr. Warner: --although he did not personally authorize any of those grants.

Mr. Sterling: No.

Mr. Chairman: The question is, Mr. Warner, do you want to amend your motion? Frankly, my inclination would be to leave it alone. If other members want to draw out the inference or put more to it, it would be better to add a line at the end of something that did that.

Mr. Warner: I am just waiting to hear from my colleagues.

Ms. Hart: I would be very uncomfortable about that, and let me tell you why. Paragraph 7, as it has been numbered in the guidelines, talks about if it is the minister's very own ministry and there are exceptions if it is not the minister's ministry that is administering the program. There are also exceptions for the OHIP kind of exception. If you just read this and take the words at face value, what we are saying very clearly is that Mr. Fontaine breached it because these were programs administered by his ministry.

Mr. Chairman: It does not say that.

Mr. Warner: No, it does not say that.

Ms. Hart: No, but we are talking about conflict of interest and we have put this in context. Why would we mention it if we were not saying it was in direct conflict with the guidelines?

Mr. Chairman: Let us get back on track here. We have a motion in front of us. You can argue for it or against it, you can seek to amend it and you can do whatever you want to deal with it.

Mr. Warner: Leave it the way it is.

Mr. Chairman: The proposal from Mr. Warner is to leave the motion as is.

Mr. Morin: If we refer again to paragraph 7 of the conflict-of-interest guidelines, it says very clearly, "The rule against contracts with the government does not preclude ministers from entering into any contract with the government which is provided for by legislation or regulation and which, by the terms of the legislation or regulation, is available evenhandedly to all members of the public (i.e., OHIP) or to a specific class of members of the public (i.e., crop insurance)."

We would be agreeable to leaving the first sentence, "Mr. Fontaine failed to disclose all his holdings as required." Period.

Mr. O'Connor: That is of no more help. That is a reiteration of what we said yesterday. We are trying to progress into the manner and methods in which he breached the guidelines, with a full explanation in paragraph 2, which I think subsequent amendments might do; but to leave that one sentence as is adds nothing to what we said yesterday.

Mr. Chairman: Is there any further discussion on the motion? Is there a preference to do it line by line?

Mr. Martel: We had better try it line by line.

Mr. Chairman: Okay, we can do it line by line. The first sentence is, "Mr. Fontaine failed to disclose all his holdings as required."

Those in favour of that? Those opposed? There are none opposed.



The second sentence is, "Golden Tiger continued to apply for mining grants and tax credits under OMEP and United Sawmill continued to receive timber cutting licences while Mr. Fontaine was Minister of Northern Development and Mines."

Mr. Martel: That is factual. It is total and complete. Factually, it is correct. There is nothing wrong with that, and it sets out where the conflicts arise. If you leave that out, it leaves the whole thing up in the air as to where the conflicts occurred.

Surely you want to be specific so nobody can say down the road, "We do not know what the committee was talking about." Either you spell it out or you get yourself into a mess of someone saying: "We do not know what they meant. They did not say what they meant. You had better tell me what the conflict is." You cannot say on one hand there is a conflict and then on the other hand refuse to say what it is.

Ms. Hart: It is factual, but it does not contain all the facts. It is not fairly presented. To be fairly presented, there has to be an additional amount of information that deals with how or by whom those programs were administered.

Mr. Chairman: Therefore, you may want to amend it, and you have already given us an indication of some amendments.

Ms. Hart: Yes.

Mr. Treleaven: An addition.

Mr. Bossy: In reading that line we are dealing with, "Golden Tiger continued to apply for mining grants and tax credits under OMEP and United Sawmill continued to receive timber cutting licences"--this is where the identification of where the cutting licences and the tax credits would come--"while Mr. Fontaine was Minister of Northern Development and Mines," we could add "from" in there and identify it, and then continue with "while."

Mr. Villeneuve: The Ministry of Natural Resources.

Mr. Bossy: That would clear that area in there.

Mr. Chairman: Mr. Warner raised the question. We had a brief discussion about it and decided to proceed with the motion as is. If someone wishes to move an amendment, it will be in order. You can do that.

Mr. Bossy: I would like to move that as an amendment, that we identify by using, immediately after "licences," the words "from the Ministry of Natural Resources" and go on with "while Mr. Fontaine was Minister of Northern Development and Mines."

Mr. Chairman: The amendment is a wording change, to insert the words "from the Ministry of Natural Resources" after the word "licences" and before the word "while."

Mr. Warner: That is agreeable. That is a friendly amendment.

Mr. Chairman: Are we agreed on that amendment? Okay.

Mr. Warner: What is the sentence as amended?

Mr. Chairman: The sentence as amended is, "Golden Tiger continued to apply for mining grants and tax credits under OMEP and United Sawmill continued to receive timber cutting licences from the Ministry of Natural Resources while Mr. Fontaine was Minister of Northern Development and Mines."

Mr. Warner: Can you call a vote on it?

Mr. Chairman: Those in favour of it as amended? It carries.

10:40

The next sentence is, "This was a clear conflict of interest." Are we agreed?

Ms. Hart: No.

Mr. Chairman: If you want to argue it, Ms. Hart--

Ms. Hart: I do. It is far from clear. It is not a conflict of interest within the specific language in the guidelines. It could only conceivably be a conflict within the basket clause, and as such it is indeed not clear.

Mr. Chairman: Is there any further debate?

Mr. Warner: It sure is clear in my mind.

Mr. Chairman: All those in favour of the motion? Those opposed?  
Carried by six to four.

The next sentence is, "The value of the Golden Tiger shares increased at a time when the shares should have either been sold or placed in a blind trust." Is there any discussion of that?

Ms. Hart: Again, the time Mr. Fontaine was given to sell the shares or put them in a blind trust was the end of December, and they were sold at the beginning of December.

Mr. Chairman: Yes.

Ms. Hart: It is not factually correct as far as I can see.

Mr. Chairman: That is your opinion.

Mr. Warner: It is true that Mr. Fontaine, as all the ministers, was given until the end of December. In the special circumstances, I think it is entirely reasonable that a minister of mines should not hold stock in mining a company that is receiving public grants. Mr. Fontaine should have realized that early on in the game and should have made immediate arrangements to sell those shares or place them in a blind trust. The concerns about winning or losing money at the racetrack all could have been handled quite nicely by Canada Trust or some other party that would have taken a detached view of the whole thing. He did not do that, and as far as I am concerned, that was not proper.

Mr. O'Connor: If we go back to the evidence of Ms. Eberts, she indicated there had been a couple of discussions, and her letter is unequivocal and definitive in stating that they should be sold or placed in a blind trust.

Mr. Morin: That is where we disagree.

Mr. O'Connor: In the subsequent questioning of Ms. Eberts, she indicated they were talking about selling them, and because of the special circumstances, she indicated that should have been done right away. I cannot recall exactly her offhand comment, but when told that Mr. Fontaine said that had not happened, she said, "That is too bad." To my mind, she was confirming that she had told him to sell or put them in a blind trust and right away.

Mr. Morin: No. What about Blenus Wright? What did he say?

Mr. Bossy: The reason I have real difficulty with this is that it says the value of Golden Tiger shares increased. Going just to there and leaving it totally open as far as identifying how much they increased is concerned--

Mr. Chairman: We do that in our report. I point out to you that in the draft report--

Mr. Bossy: But in here, to go with the motion--

Mr. Chairman: Excuse me. In the draft report, the committee decided it would not comment on this; it would simply report on the value of the shares. That is in the draft you have, and there was an increase.

Mr. Bossy: To make that a motion when it is so unclear--again, it is perception.

Mr. Chairman: I do not want to preclude you from arguing this back and forth, but I point out that you have had this motion for some time. You have obviously been aware that you wanted to establish whether or not the shares increased and you have asked to have included in the draft report a simple statement of the value of the shares, and that is included there. It seems to me you can argue circumstances, perspective, guidelines and a whole lot of things, but you cannot argue with the simple statement that they did increase in value. You can also argue that it was less than what he bought it for, or that some of them were.

Ms. Hart: Mr. Warner and I are not far apart on what the guidelines should say, but I think we have to come at them from a different way. They do not say currently that the blind trust had to be immediate and the shares had to be disposed of immediately, even if he was Minister of Northern Affairs and Mines. That could come into the report as a recommendation. But what we are dealing with are the guidelines that were before Mr. Fontaine and his advisers, and there is nothing that requires him to do it immediately.

Mr. Chairman: I sense we are at the point where we have had our say, and it is time to put the question.

The wording is, "The value of the Golden Tiger shares increased at a time when the shares should either have been sold or placed in a blind trust."

Those in favour of the motion? Those opposed? Carried.

Now we will go to amendments.

Mr. Warner: Part 2 as amended? If you are dealing with this as--



Mr. Chairman: It would be helpful to me if you gave us a little bit of latitude. We will print the motion as an amendment and present it to you as quickly as we can. I am getting snowed under with amendments.

Mr. Warner: Sorry about that.

Mr. Chairman: The next amendment I have, in the order in which it was received, is one that was presented yesterday by Ms. Hart. It reads as follows:

"Mr. Fontaine failed to disclose all of his holdings as required. The committee views this as a breach of the conflict-of-interest guidelines but finds that no benefit accrued to Mr. Fontaine as a result of the failure to disclose."

Do you want to alter that?

Ms. Hart: I am prepared to withdraw it.

Mr. Chairman: Okay; the motion is withdrawn.

The next motion I have as an amendment is one prepared by Mr. Martel. He has labelled it 2B. I do not think it has to be 2B; it is all part of 2. I will read it for you so you can identify it. You received this yesterday afternoon.

"Mr. Fontaine held one-third share of United Sawmill. United Sawmill had 50 per cent share of Hearst Forest Management Inc. Mr. Fontaine failed to disclose that he had at least four meetings at Hearst Forest Management with MNR and with Mr. Cloutier, manager of Hearst, and Mr. Viel, manager of Lecours. He further had dealings with Levesque, the third party to the Hearst forest management agreement.

"Mr. Fontaine, because he had a financial interest with Hearst Forest Management, therefore should have refrained from any discussion or involvement whatsoever. His failure to comply created a serious conflict.

"MNR, it would appear, approached Mr. Fontaine in January 1986 to give him an update of Hearst Forest Management. It would appear that the approval for the Hearst forest management agreement hinged on getting all three parties to the FMA in agreement. Mr. Fontaine was used by MNR to get the matter moving."

In his own inimitable style, that is Mr. Martel's amendment.

Mr. Martel: With your indulgence, if I may speak to the motion, I think I should have put the last paragraph first, quite frankly.

Mr. Warner: It is more sequential.

Mr. Martel: Yes, it is more sequential if I put the last paragraph first. It sets the stage to lay out the conflict of interest.

There is a little bit of verbiage that could be cleared up, nothing significant, but I think I could add the words "and discussions with Mr. Cloutier." I do not know whether he had a meeting; I know he had discussions, because Cloutier phoned him. Mr. Viel managed to show up at the meeting at the MNR residence. I believe that was Viel, and I believe Viel is the manager of

Lecours. Therefore, I think it could be cleared up a little bit by saying he had discussions. I do not know whether he had meetings.

Mr. Chairman: There is one other area I want to draw to your attention. I think you meant to say "had four meetings with Hearst Forest Management."

Mr. Martel: Yes. I had "concerning." Make it "concerning Hearst Forest Management with MNR." That is indisputable. He might have had five, but we know of four that were recorded; we have them on the record. Perhaps I can put "and discussions with Mr. Cloutier, manager of Hearst, and Mr. Viel, manager of Lecours."

I would like to put the last paragraph first and then I would like to speak to it very briefly.

10:50

Mr. Chairman: Just so we are clear, Mr. Martel, in his usual style, has put it to you backwards. Now he wants to put the last paragraph first.

Mr. Martel: I was in a rush. I did not write the Pickwick Papers. It was only one amendment and I was in a hurry doing that.

Mr. Chairman: He would like to have the motion put so that the last paragraph is placed first. The wording changes would be to add the words "that he had at least four meetings concerning Hearst Forest Management with MNR and discussions with Mr. Cloutier, manager of Hearst, and Mr. Viel, manager of Lecours." That is the proposed amendment. Mr. Martel, do you want to speak to it?

Mr. Martel: I do not want to spend a lot of time on this, but the more I reflect on what happened, the angrier I get. While the Ministry of Natural Resources meets with me in my riding, and with all other members in northern Ontario--I do not know about the south--to find out what is going on in our ridings in terms of new contracts let, what the plans are for recreational land, etc.--which is most helpful, and I do not want to prevent that from occurring--it used extremely bad judgement in having an information session with Mr. Fontaine. As I pointed out, he is at least a one-sixth owner in Hearst. His company has a 50 per cent of Hearst Forest Management. He owns a one-third interest in his own company.

It seems to me that MNR staff was pretty dense in asking a minister to meet with it so it could advise him where the Hearst forest management agreement was at. He had a direct interest in that. The guidelines say he cannot have discussions. What in God's name is someone doing introducing or starting the discussions? It is exacerbated when Mr. Cloutier tells us here that they understood that without all three parties involved in the agreement, the Hearst FMA was not going to fly. I see Mr. Fontaine then taking it upon himself and getting in touch with people and people getting in touch with him; it is a great dialogue.

I must ask myself whether they triggered that on purpose. Maybe I am from Missouri and I am a doubting Thomas, but it was absolute stupidity on their part. They should have gone through Mr. Kerrio, and he should have cleaned it up. Certainly, you do not involve the minister who has an interest in it. Therefore, they helped to trigger that. I want to be fair to Mr. Fontaine. I am not sure he still understands what conflict of interest is.

Even as late as this morning, as a result of a phone call I received, he said we were persecuting him and it was a witchhunt. That worries me.

I want to be as clear as possible in this, so there is no misunderstanding; this is not a witchhunt. We think people helped to set him up. He is his own worst enemy, but I think we have to put it all in there. Some people might disagree with me, but I hope not, because I do not think MNR should have instituted any study involving the minister.

Mr. O'Connor: I have some difficulty with the thrust and intent of what is now paragraph 1 of the three with which we have been presented. As I understand our mandate here, it is to hear evidence and to pass judgement with respect to Mr. Fontaine and his alleged breach of conflict-of-interest guidelines. We were not asked to make, and I do not think we should become involved in, a similar adjudication with respect to a ministry or, in particular, senior civil servants in that ministry. If we had that as part of our mandate from the outset, we might have called different evidence or directed our attention in a different manner from what we did.

To be judgemental at this point on senior civil servants with respect to the evidence on that one meeting--the one we are talking about is the meeting of January 21, because the other three meetings were instigated by Mr. Fontaine himself--is a bit unfair. If we recall, there was a long agenda at that meeting; it dealt with a range of five or six general matters, only one of which was the FMA. To take from that that the ministry was using Mr. Fontaine to get things moving is a bit unfair. In any event--back to my first point--that is not really our mandate. We are here to deal with René Fontaine, and we may be out of line in delving into that area.

Mr. Martel: Should they have called him to say they had a meeting?

Mr. O'Connor: They called the meeting for a range of other purposes and threw this in; it was not specifically to deal with the FMA, and they probably should not have dealt with it at that meeting. However, to come to the conclusion as strongly as you have that they were using him to get things moving is perhaps unfair. He is responsible. He is the guy involved. He called three meetings, and in my opinion he is the one who should bear the responsibility for the involvement with the ministry, not the reverse. I think we are being overly harsh on the basis of scant evidence.

Mr. Bossy: What we are trying to judge is conflict of interest as far as Mr. Fontaine and the FMA are concerned. We have to conclude by the evidence received here that the FMA, the agreement itself, had been concluded. We know that agreement was totally finished, except for its implementation. That implementation--we have heard evidence here--was why Mr. Theriault called the meeting. That is the only thing.

The FMA had been agreed on. Did Mr. Fontaine influence the FMA itself? The implementation is the only area we can say he was drawn into. It is fairly simple. The FMA was a thing the ministry had already worked out, and that was the conclusion of years of effort. That is my analysis of the evidence I have heard. Not once did I hear that Mr. Fontaine, as a minister, influenced the final results of the FMA. The only evidence I heard was that he was drawn in at the end to see how it could be implemented.

Mr. Warner: No; to make sure it would work, with Mr. Cloutier.

Ms. Hart: I would support the amendment except for the very last sentence--I guess it is now the last sentence of the first paragraph--which



says Mr. Fontaine was used by MNR to get the matter moving. My concern is that we are getting into the very area the committee decided not to involve itself in yesterday: motive and intention. We, as a committee, decided not to put in the report Mr. Fontaine's motive and intention with respect to the Golden Tiger shares, even though we had evidence of his motive because he testified as to his motive. Here we have scant evidence--I think that is the way of putting it--and yet we are dealing with the motive of MNR. But for that sentence--

Mr. Martel: We will agree to strike the last sentence to get a consensus.

Mr. Chairman: So the sentence that would be deleted would be, "His failure to comply created a serious"--

Mr. Martel: No. "Mr. Fontaine was used by MNR to get the matter moving."

Mr. Chairman: The last sentence of the first paragraph. Okay. Let me try to put this before you as squarely as I can. It would now read:

"MNR, it would appear, approached Mr. Fontaine in January 1986 to give him an update of Hearst Forest Management. It would appear that the approval for the Hearst forest management agreement hinged on getting all three parties to the FMA in agreement.

"Mr. Fontaine held one-third share of United Sawmill. United Sawmill had 50 per cent share of Hearst Forest Management Inc. Mr. Fontaine failed to disclose that he had at least four meetings concerning Hearst Forest Management with MNR and discussions with Mr. Cloutier, manager of Hearst, and Mr. Viel, manager of Lecours. He further had dealings with Levesque, the third party to the Hearst forest management agreement.

"Mr. Fontaine, because he had a financial interest with the Hearst Forest Management, therefore should have refrained from any discussion or involvement whatsoever. His failure to comply created a serious conflict."

11:00

That is the motion. Those in favour? Those opposed?

You do have to vote. Let me try it again. Those in favour? Those opposed? Carried.

Mr. Chairman: The next order of amendment that I have is a series of them from Mr. Sterling. There are four amendments, I believe, that he has proposed. The first problem I have is that if they are put as is, they will be incoherent--not that that has ever stopped us. This may be one of those situations. If you would allow us the latitude to write an introduction to a sentence or something or to make grammatical changes that would correct it, we could proceed. The intent is clear. You may be able to do that as you go through them, Mr. Sterling, and that might assist us.

Mr. Sterling: Maybe I can reuse the 1, 2, 3 and the sentence thereafter as not being part of the motion but only as a direction about the area of subject matter concerned in that particular motion.

Mr. Chairman: Can we read it in this way? If you have the copies in your hands, if we use the first line as a title line, that may assist us. The

first line would read, "1." and the title would read, " Failure to comply with respect to his interests in Hearst Forest Management Inc." Then the prose would begin. It is a slight alteration of the motion as presented, but I take it that Mr. Sterling accepts it. It would assist us in simply identifying it. You really have no interest in that. When they are reprinted, it will start with a capital letter and it will be seen as the title of a subsection.

Let us deal with them in order, one by one, and take the first one, which I will identify as number one, notice of motion. It will now be under the heading of "Failure to comply with respect to his interests in Hearst Forest Management Inc." I point out to you that we are going to have a little trouble if we have to go line by line on this, because we are becoming kind of wordy here, but I cannot control how you put in the amendments.

Mr. Sterling, do you want to lead off with any debate on the matter? Are there any comments from anyone?

Mr. O'Connor: I will make just one comment. The purpose of these amendments, of course, is to elaborate more fully on the bald statements we have made already in paragraph 2. It appears that, having passed Mr. Martel's motion, paragraph 3 of this first page may now not be necessary.

Mr. Chairman: Is that a suggestion that we delete paragraph 3?

Mr. O'Connor: I am suggesting that, if Mr. Sterling would agree with me on this, it is a repetition almost word for word of what Mr. Martel has said in the first paragraph of his motion.

Mr. Sterling: There is one salient factor that has been of concern to me, which is that paragraph 3 also acknowledges, in the second sentence, that the forest management agreement is of value and will be of benefit to the Fontaine family if ever signed.

Mr. Chairman: I take it this has not been accepted as a friendly amendment.

Mr. Sterling: I would accept that we delete the first sentence of paragraph 3.

Mr. Chairman: So you are withdrawing the section that reads, "Mr. Fontaine is a one-third owner of United Sawmill Ltd., which, in turn, owns 50 per cent of Hearst Forest Management Inc." Is that right?

Mr. Sterling: Okay.

Mr. Chairman: That is what you want. Okay, so you have now withdrawn the first sentence of paragraph 3, which I just read.

Ms. Hart: On a point of order, Mr. Chairman: We have just got these. Can you give us a few minutes to look them over in order to see how they fit together?

Mr. Chairman: Yes. If you like, we can recess for 10 minutes while you have a chance to read that.

Mr. Martel: Can you give them some sort of order?

Mr. Chairman: I will point out to you again that if at the beginning of the meeting you present us with four pages of amendments, you will have to

put up with adjournments to let people read them. We stand adjourned for 10 minutes.

The committee recessed at 11:06 a.m.

11:14

Mr. Chairman: We will now proceed with Mr. Sterling's amendment, which we can identify as the one which begins, "Failure to comply with respect to his interest in Hearst Forest Management Inc." There has been a deletion in the third paragraph of the sentence which reads, "Mr. Fontaine is a one-third owner of United Sawmill Ltd., which, in turn, owns 50 per cent of Hearst Forest Management Inc." That sentence has now been deleted.

Any discussion on the motion? Mr. Warner.

Mr. Warner: I am a little puzzled by the motion in that a portion of it has already been addressed in Elie's amendment and a portion of the factual material with respect to United Sawmill has been dealt with in our report.

I am assuming that what we have now been given as the third run at this thing will be part of our report, and the section starting on, I guess, page 8, and through pages 9, 10, 11 and 12, deals with the letter from Ms. Eberts. It seems to me that when I started to draft a motion, it was my intention to keep it simple, clear, straightforward and, if you will forgive me, without any legalese. I wanted plain language that folks could understand, and I wanted to keep it simple, short and sweet.

The attached portion of the report, all the factual material that normally is part of the report, has been done for us and is, as far as I can see, quite accurate. Normally, what committees do is put together a report that has all the factual background material--append evidence, put a list of witnesses and so on--but the actual motion is something that should summarize the conclusions you have reached as a result of your inquiry.

That is what I attempted to do, and that is why I tried to keep it relatively short. Quite frankly, and unfortunately, most of what is on these three pages is a rerun of material we already have and conclusions we have already reached in other parts of the motion. I am not persuaded that we need to accept this.

Mr. Sterling: Mr. Chairman--

Mr. Chairman: We have a list. We will go along with the list. Ms. Hart.

Mr. Sterling: Sorry.

Mr. Treleaven: On a point of order, Mr. Chairman: I think he wants to suggest, in keeping with Mr. Warner's comment, that he withdraw most of it.

Mr. Sterling: These motions were drafted at a time when we were not certain of what else was going to happen. This therefore does make some of it redundant.

The one part missing from Mr. Martel's statement is a clearer understanding, at least by the members of our caucus, that the forest management agreement is of value to both the Hearst area and the participants



in the FMA and that Mr. Fontaine will personally benefit once an FMA is signed. Those are the two points that have to be made, in my view.

Mr. Chairman: What are you suggesting we do here? Are you withdrawing these motions or part of the motions?

Mr. Sterling: I would like to deal with each one on a piecemeal basis.

Mr. Chairman: You are not helping me. Is the part of this motion that I have identified as part 1--"failure to comply with respect to his interests in Hearst Forest Management Inc."--what you want to delete?

Mr. Sterling: Yes.

Mr. Chairman: Will you tell me what it is?

Mr. Sterling: I guess the best idea at this stage of the game is to withdraw the whole motion. I am going to replace it with another motion, which will say, "The forest management agreement will be of great value to both the Hearst area and the participants in the FMA."

Mr. Chairman: I do not see that anywhere here.

Mr. Sterling: No. I am telling you what I am going to do.

Mr. Chairman: We will deal with it if and when it arrives.

Interjection.

Mr. Chairman: Not on that, because he has just withdrawn it.

Mr. Martel: To head him off before he presents something, we passed an amendment yesterday, and it says, "In these three categories, Mr. Fontaine was in a position to potentially benefit personally from his violations of the guidelines." That is already in, and it makes reference in the three areas--"Failure to comply with respect to his interests in Hearst Forest Management Inc." That is what he is talking about.

We went further yesterday--"failure to comply with respect to his interest in United Sawmill, which is part of Hearst Forest Management Inc."--and then we concluded--forgetting Golden Tiger for a moment--that in these three categories, Mr. Fontaine was in a position to potentially benefit. It is all there.

11:20 a.m.

Mr. Sterling: With deference, in this case he is entitled to potentially benefit once the FMA is assigned. In two cases, he has already benefited.

Mr. Chairman: I do not think it is very fruitful to proceed on this discussion of a would-be amendment. I would prefer that, if the amendment is forthcoming, we put it in writing and circulate it, and we will deal with it if and when it arrives.

The next item I have is a notice of motion that begins "Failure to comply with respect to his interests in United Sawmill Ltd." Do you still want to place that motion, Mr. Sterling?

Mr. Sterling: Mr. O'Connor is going to speak to that motion.

Mr. Chairman: Are you still placing this motion?

Mr. O'Connor: I guess he is.

Mr. Sterling: Yes.

Mr. Chairman: Mr. Sterling has indicated he still wants to place this motion. For purposes of identification here, this is listed as number 2, "Failure to comply with respect to his interests in United Sawmill Ltd." That motion now is before the committee.

Mr. O'Connor: Mr. Chairman, again as to the form, I suggest that everything after 2 be a title to the second motion, should it pass.

Mr. Chairman: Right.

Mr. O'Connor: My concern--and I have said it before--is that yesterday, as Mr. Martel has pointed out, we made the bald statements that there were conflicts of interest in three general areas, in three specific areas and in a range of general areas and left it hanging in that regard.

All that these motions do, in less than half a page, is elaborate what we mean and how specifically we found that there were conflicts in the particular areas. I cannot see that because they may result in the findings extending to two pages rather than one that is offensive. I think it is fair to Mr. Fontaine that we be specific and clear as to the regard in which we did find them in breach of conflict of interest with regard to Hearst Forest Management Inc. Leaving it hanging with that statement only is not of much help to the public or to Mr. Fontaine.

Similarly, with the other three, we talk in terms of the evidence, reiterating some of the evidence, while with regard to the first motion, we did not in our fact statement quote from the January 30 statement in the House, as the motion does. In my opinion, it was a significant reason we found him to be in conflict with regard to the FMA, because he had said in the House that he would not hold any meetings and then thereafter he held three meetings.

Without that evidence, I can see that there would be something lacking as far as the public is concerned. To flesh out the bald statements in the manner we have attempted is a useful exercise and we should carry on with it.

Mr. Chairman: I should point out to members of the committee the two points that are enumerated here. One is about participating in negotiations concerning a third-party timber licence for United Sawmill from James River-Marathon that would provide United Sawmill an additional supply of 10,000 cords of wood annually. I would be strapped to provide you with substantiation for that.

The second one is participating in a ministerial decision on whether United Sawmill would receive government funding for a forest access road. I put it to you that this is drawing a conclusion which you may not all want to draw.

In other words, there are opinions contained in here which you are legitimately entitled to hold, but I would not want you to perceive them as facts.

Mr. O'Connor: Was that not the evidence of several witnesses, with regard to both of those?

Mr. Chairman: It could be interpreted that way, let me put it that way.

Mr. Sterling: Mr. Fontaine said he participated in the James River-Marathon discussions before he left the meeting to deal with the FMA.

Mr. Chairman: Yes, you can come to that conclusion if you want. I am pointing out to members of the committee that those are two areas where opinions are expressed and conclusions are drawn that you may not all share.

Mr. O'Connor: All we are saying is that he participated in the negotiations; that is quite clear. He said he did participate in them concerning a third party. We are not suggesting he influenced it or what effect he had on the participation, just that he was there and participated.

Mr. Martel: Somebody refresh my memory; I could be dead wrong, but I thought the whole thing on James River-Marathon was to ensure cutting rights for the native people. Am I wrong?

Mr. O'Connor: No. That is Calstock.

Mr. Treleaven: I thought that too and it was straightened out for me.

Mr. Martel: I am trying to get some clarification.

Mr. O'Connor: You are thinking of the Calstock Indian band.

Mr. Martel: Yes.

Mr. Sterling: This was the meeting on August 27, which I never realized took place until Mr. Cloutier came in here and said he had been at a meeting with Mr. Fontaine on August 27 in Mr. Kerrio's boardroom along with Mr. Levesque and, I believe, Mr. Viel from Lecours.

When Mr. Fontaine was here, I thought from Mr. Cloutier's evidence he had withdrawn immediately upon introducing the people to Mr. Kerrio. Mr. Fontaine indicated to me that on September 11 he withdrew only after the first discussions with regard to the James River-Marathon transfer of timber licences from that area to the three sawmills in the Hearst area, that being 30,000 cords, 10,000 going to each of Lecours, Levesque and United.

The fact of the matter is that Mr. Fontaine stayed in that meeting to deal with the allocation of those timber licences, which I consider a serious problem.

Mr. Warner: I am very unhappy with what I see in front of me. Seriously, before I dump all over my Conservative colleagues here, I ask that they consider withdrawing the motion. There is a statement down at the second-last line of this motion, "Mr. Fontaine received a direct benefit from the issuance of the licences." There was not a shred of evidence to that effect; not one.

If you are going to make statements, they have to be factual and they have to be fair and reasonable. The timber cutting licences were issued and reissued to those companies year after year under Conservative governments,



and they were continued with the new government. Naturally, the timber cutting licence is of benefit to the particular companies. You cannot say it was a direct benefit to Mr. Fontaine. It may have been a direct benefit to those companies; obviously they required the licences.

Mr. O'Connor: Who owns them?

Mr. Warner: He had a one-third interest in United Sawmill and he had an interest in those other companies. When you make a statement like this, the suggestion is of money going directly into his pocket.

Mr. Treleaven: When his shares go up in value--

Mr. Martel: No. Wait a minute--

Mr. Warner: No, no. I am not going to be a party to some kind of smear campaign. Excuse me, but we started out with a task: trying to determine whether Mr. Fontaine violated the conflict-of-interest guidelines. We have proved that he did. We also, at the same time, learned that the Premier's office did not do a whole lot to help Mr. Fontaine in ensuring that he did not have a conflict of interest. He was left to flounder around on his own. That comes home to roost with the Premier, and we are going to deal with him.

This goes beyond that, to suggest, after we have heard all the evidence, that he was somehow motivated--and that is what this leads to--by greed or whatever and he is lining his pocket. You cannot make a statement that he received a direct benefit from the issuance of licences. It is not true.

Mr. Sterling: But that is the fact.

Mr. Warner: It is not the fact.

Mr. Chairman: We can have this argument, but we will have it in order; there is a list.

Ms. Hart: Mr. Warner probably will not like the fact that a lawyer agrees with him, but it seems to me that this going well beyond what we are here to do. The essence has been already placed in the report, and some of these so-called facts, if my recollection serves me, are very tenuously facts if they are facts at all. I am very uncomfortable saying these things about a colleague when I am not absolutely certain of them in my own mind, and I am nowhere close to being certain of them.

11:30

Mr. O'Connor: I refer to the third-last paragraph, in which we quote Ms. Eberts's letter. In her letter to Mr. Fontaine, she characterizes his interest in United Sawmill as "a personal beneficial interest," when she says "any dealings as a cabinet minister which affect that 'personal beneficial interest.'"

There is no question that he has a personal beneficial interest in United Sawmill, which is the result of the amalgamation of Polar Lumber and Arrow Timber and that the granting of timber licences to those two companies will result in an increase in their profitability. He has a personal beneficial interest in that company. I cannot see how the statement that he will directly benefit from that is in any way--

Mr. Warner: The licences are automatically renewed every year.

Mr. O'Connor: Sure, they are automatically renewed. We agree entirely that they are automatically renewed. That is not the point. The point is that, as a result of that renewal, he stands to benefit financially. That was pointed out to him as early as July 9 by Ms. Eberts, when she told him not to be involved in the renewal of those licences, and he was. That is the direct conflict of interest. I cannot see the offensiveness of stating he has a personal interest, that he will benefit by the renewal of the licences and that they were renewed. Those are all facts.

Mr. Martel: I find that second-last paragraph totally offensive. I have never heard so much BS in my life. Those licences had been issued under Tory government year after year automatically, but you are trying to suggest that Mr. Fontaine went out and personally intervened to make sure he got these licences.

Mr. Sterling: No.

Mr. Martel: That is the implication there. Whether you want to admit it or not, the implication is that Fontaine went out and deliberately schemed and connived to get those two renewals. I recall the questioning pretty carefully on that. At the time, I thought it was a crappy issue, because the things were done automatically.

Great to-do was made about the names being changed, but that had gone on under Alan the Pope for years and it had gone on under Mike Harris. Now Fontaine is using his influence to get cruddy licences which were automatically renewed by the Ministry of Natural Resources. You can want to hang a guy, but do you stomp him in the head too? I find that whole last thing offensive, to say the least.

Mr. Treleaven: I would like to explore a little bit with Mr. Warner about this beneficial interest and obtaining a benefit. Is Mr. Warner not prepared to agree that Mr. Fontaine received a benefit through Golden Tiger shares increasing in value and being held?

Mr. Chairman: Rhetorical question.

Mr. Treleaven: I take it Mr. Warner is not prepared--

Mr. Warner: I have an answer.

Mr. Chairman: You are next on the list; so you will get a chance to respond.

Mr. Treleaven: --to agree that there is any direct benefit, and that is concerning me. I will stop there. Mr. Warner is next.

Mr. Warner: Members of the committee will recall that earlier this morning when we dealt with section 2, I expressed a concern about my own wording because it leaves an inaccurate impression. I suggested the wording left the impression that Mr. Fontaine somehow had something to do with the issuance of the cutting licences or the issuance of the tax credits, both of which at the time were the responsibility of some other minister; so we amended that section to say "cutting licences from MNR."

I am suggesting we have a similar problem, only more serious, in this statement that Mr. Fontaine received a direct benefit from the issuance of the

licences. It makes it sound as though he somehow had the power to issue the licences and, by so doing, could receive a direct benefit. If you want to be completely accurate about it, I suppose you could put in there "an indirect benefit," because the benefit of a cutting licence goes to the company in which he has a financial interest, although he is not the sole owner. Instead, you chose to say he had a direct benefit.

To me, that presents a cutting licence goes to the company in which he has a financial interest, although he is not the sole owner. Instead, you chose to say he had a direct benefit. To me, that presents an implication that is not true. I am not prepared to accept it. As far as the rest of that page goes, the reference to Ms. Eberts's letter is already contained in the body of the report which we have completed. The section above about the companies receiving their licences is something that is automatic, and we know that. When you put it in, again, you are drawing implications. That is not what we are about.

If we have something to say to the government, Mr. Fontaine or Mr. Peterson, it should be said directly. The direct thing we know is that there was a conflict of interest and we see that clearly, but not to raise suggestions of impropriety, that somehow the man will personally benefit or personally gain from all this.

Interjection.

Mr. Warner: There was not a shred of evidence for that.

Mr. Treleaven: Oh, come on, David.

Mr. Warner: You think that if you say something long enough, people will believe it.

Interjections.

Mr. Warner: You folks may have all believed that in the confines of your own quarters, but when we had the evidence provided here, there was not a shred of evidence to show there was personal gain.

Mr. Treleaven: Paul Martin's evidence.

Mr. Warner: Was there a photocopy of a cheque presented here, a cheque made out to Mr. Fontaine for a particular amount, some kind of payoff?

Mr. Treleaven: He said the shares went from 30 cents--

Mr. Chairman: Mr. Treleaven, you do not need to be reminded about interjections.

Mr. Treleaven: Okay. He is giving me rhetorical questions.

Mr. Chairman: Yes, as you were previously. I suspect we are ready for the question.

Mr. Sterling: The motion should not have been drafted in this form. I acknowledge that Mr. Fontaine had no knowledge that the timber licences were being issued, but this is part of the problem that we are involved in in terms of conflict-of-interest guidelines and the involvement of a cabinet minister in businesses that do business with the government.



I believe René Fontaine 100 per cent that he had no idea that these timber licences were being renewed in August, but that does not take away from the point that he was in the position of having it happen to him. It happened to him. Like it or not, the fact of the matter is that there is a shortage of sawmill lumber in the Hearst area, and if these licences had not been renewed, it would have had a very degrading effect on United Sawmill and the profit picture of that company at the end of the year. That is a fact.

Mr. Warner: Why would they not have been renewed?

Mr. Chairman: David.

Mr. Sterling: That is a fact. The renewal took place. They may or may not have been renewed. I do not know why you go through a renewal process if there is no choice about whether they should be renewed. We get into the position of the Premier in saying that René Fontaine never benefited personally. I am willing to give René Fontaine that he never took any actions to benefit personally, but he did benefit personally and will benefit personally in the future, not because of anything he did with knowledge to attain that goal, but it happened.

Mr. Warner: Indirectly.

Mr. Sterling: That is right. It happened indirectly.

Mr. Chairman: Okay. Since we are ready for the question on the matter, I am going to put it to you. The matter before you--

Mr. Sterling: I am going to withdraw the motion, Mr. Chairman, and I will withdraw the other motion as well.

Mr. Chairman: Mr. Sterling has withdrawn that motion. I take it that you are withdrawing the motion entitled "Failure to comply with respect to his interests in Golden Tiger Mining."

Mr. Sterling: I will leave the motion with regard to his interests in other public--

Interjection.

Mr. Chairman: What is appendix A?

Mr. O'Connor: It would be the listing of the 34 ways in which the breaches had occurred in minor respects, minor assets and so forth. I think we distributed a copy of the document yesterday.

Mr. Chairman: Do you want to let this motion stand?

Mr. Warner: Hold on. This motion is dependent on there being some other piece of paper. The some other piece of paper was that inaccurate little bundle we got yesterday.

Mr. Martel: In appendix A you are talking about draft 2, 3 or what?

Mr. Warner: The so-called 34 breaches.

Mr. Chairman: The chair is at a bit of a disadvantage. I acknowledge that yesterday a motion was presented to the committee that alleged some 34

breaches. Before the committee could deal with it, that motion was withdrawn. That appendix then is not before the committee. I believe it was withdrawn because, by the time we got around to discussing it, people had decided that in fact there were not 34 alleged breaches, that there were some 11 alleged breaches of which five were significant and six were not. They withdrew the motion. My problem is you keep putting pieces of paper on the table, arguing about them and then withdrawing them. That is why I have a problem.

Mr. Treleaven: Can we have a five- or 10-minute adjournment while we get the papers sorted around?

Mr. Chairman: That is agreeable. We will adjourn for five minutes.

The committee recessed at 11:41 a.m.

11:49

Mr. Chairman: We are ready to resume.

Mr. Sterling, what is your pleasure with this motion?

Mr. Sterling: I withdraw it.

Mr. Chairman: Okay. The motion is withdrawn. I have indication of motions that will be put under paragraph 4 and at the end of the report. I have one that does not have an indication. Here is another one under paragraph 4. Are there any other amendments to this section of the report?

Mr. Warner: Which section?

Mr. Chairman: Section 2. It is basically Mr. Warner's motion, part 2. Any that I have in my possession have been withdrawn or dealt with. May we proceed to part 3?

Interjection: May we pass part 2 as amended?

Mr. Chairman: The motion is to pass part 2 as amended. Those in favour?

Mr. Warner: Part 2 as amended?

Mr. Morin: "The value of the Golden Tiger shares increased at a time" is in Mr. Warner's motion.

Mr. Chairman: Yes.

Mr. Morin: Did we withdraw that?

Mr. Chairman: No. The motion carried on a vote of six to four.

Mr. Morin: Did we vote on it?

Mr. Chairman: Yes. The question now is part 2 as amended. Those in favour? Those opposed? Motion carries. The count was eight to two.

We will move on to part 3, on Mr. Warner's main motion once again. It reads: "Mr. Fontaine, as a cabinet minister, had the responsibility of conforming"--

Mr. Morin: Is it too late for me to ask that the last vote be recorded?

Mr. Chairman: The eight-to-two vote? You want that vote recorded?

Mr. Morin: If I failed to raise my hand, I was--

Mr. Chairman: We can do it again. We are in committee.

The committee divided on Mr. Warner's motion, which was agreed to on the following vote:

Ayes

Bossy, Hart, Martel, Newman, O'Connor, Sterling, Treleaven, Villeneuve, Warner.

Nays

Morin.

Ayes 9; nays 1.

Mr. Martel: It helps if you have an abacus.

Mr. Warner: Can the chair count?

Mr. Chairman: The chairman can count, but he cannot count them if you do not raise them.

We will move on to part 3 of Mr. Warner's motion. It reads:

"Mr. Fontaine, as a cabinet minister, had the responsibility of conforming to the Premier's conflict-of-interest guidelines. He must accept the responsibility of his incompetence. The Premier must accept the responsibility for not having enforced the guidelines."

Any discussion on that?

Mr. Warner: I chose my words very carefully in this section, as I am wont to do most times. Because the evidence was not absolute that there was anything other than incompetence, I chose the word "incompetence." I do not know how else to explain everything that transpired.

Mr. Fontaine should not have been involved with United Sawmill or the FMA during those discussions. He should have withdrawn himself from that. If others encouraged him to participate, he should have said no; that was his responsibility. He should not have held mining shares while being minister of mines; that was his responsibility. He ignored the advice around him.

What was placed before the committee is the famous Eberts letter, which is quite explicit and good advice. He ignored that. Although we did not have sworn testimony to that effect, we understand friends and acquaintances and others in his community and elsewhere advised him to divest himself and shed the albatross as quickly as he could, but he chose to ignore their advice. To be charitable, I have characterized that as incompetence, mostly because I cannot prove anything else based on the material presented before me. He had a responsibility to conform to the guidelines, and obviously he did not do that.



At the same time, however, the Premier cannot escape his responsibility. I understand full well the argument, part of which has been put forward by my colleague Mr. Bossy, that it was a new government that had not been in power for more than four decades and did not know exactly what to do. They were trying to get everything organized, they were trying to present a new program and they were trying to start on the implementation of the accord.

I understand and appreciate that. Let us not forget, however, that the Premier has a decade of experience in this building; he sat in opposition for 10 years. He is no stranger to this place. He comes from a background of being a very wealthy businessman. He understands finance; he understands the world of commerce and business; he understands what government is all about. We are not dealing with someone who is naïve or who lacks understanding.

It is also important to note that while the guidelines were general and applied to every cabinet minister, some cabinet ministers had experience and some did not. How is it that some cabinet ministers did not get into trouble and others did? One could logically expect that members such as Jim Bradley and others who have been around for a while, who know the ropes, would not have any particular problem knowing what to do and what to follow up on and how to carry through on things. That comes with experience.

Would not logic dictate that if you had members such as Kené who were new to the House, who had never been elected before, they would require a little special attention and someone from Premier's office would keep an eye on how things were going? When they learned their Minister of Northern Affairs and Mines had shares in a mining company, a mining company that was receiving grants from the province, a little alarm bell should have rung and said: "Hey, we have a problem. Somebody do something about it."

Did no one in the Premier's office, somewhere down the line, realize there were negotiations under way for a forest management agreement and they had a Minister of Northern Affairs and Mines who was involved in those discussions and who had an interest in one of the companies that would be part of that agreement? An alarm bell rings again in the Premier's office.

I guess they have silent alarms over there because, according to Mr. Fontaine himself when he was here last Friday, no one helped him. To tell the truth, I feel sorry for the man. He was left to flounder on his own. Someone came and met with him for a half an hour--what did he say; 20 minutes, 30 minutes, 40 minutes?--to discuss the forms he should fill out. That was it. This poor soul was then left to his own devices, and to be charitable, he was incompetent in that.

While the parliamentary tradition of ministerial responsibility applies to René for sure, the Premier does not get off the hook on this one in my books. He had an equal responsibility to ensure that his cabinet ministers, especially the brand-new ones, were doing things properly. The Premier did not do his job.

Mr. O'Connor: I have some remarks to make which may take a few minutes. I wonder whether it is an appropriate time to adjourn, and maybe when we come back after lunch we will have an amendment proposed to this section with regard to that particular wording.

Mr. Chairman: It is the committee's wish that we adjourn then until two o'clock, when we will try to give you an updated draft for this section of the report as we have it.

The committee recessed at 11:58 a.m.

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

TUESDAY, SEPTEMBER 23, 1986

Afternoon Sitting



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Laughren, F. (Nickel Belt NDP)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

Hart, C. E. (York East L) for Mr. Mancini

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service



LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Tuesday, September 23, 1986

The committee resumed at 2:11 p.m. in room 228.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: We are ready to proceed. We have tabled with you a copy of the up-to-the-minute quotation as to what has been passed and what has not. I point out that we may make one small editorial change at the bottom of the first page so that the last sentence on the first page would read, "It would appear that the approval for the Hearst forest management agreement hinged on getting all three parties to the FMA in agreement." It would read "parties to the FMA."

Mr. Treleaven: Mr. Chairman, in the second line of number 2, "tax credits," not--

Mr. Chairman: I knew there was a reason we had you on this committee.

Mr. Treleaven: Right. It is my sunny disposition as well.

Mr. Chairman: It is a three-letter word. No wonder you got it right.

Mr. Treleaven: Okay. Is there no way of cleaning it up as to grammatical things and so on on the second page as well?

Mr. Chairman: Yes.

Interjection.

Mr. Treleaven: No. It looks as if it is sort of written in.

Mr. Chairman: We take that as a compliment from people from Woodstock.

Mr. Chairman: We are ready to proceed. We are on section 3 of Mr. Warner's motion. Mr. O'Connor has the floor.

Mr. O'Connor: Have we dealt with section 3 up to the point of the last sentence?

Mr. Chairman: No. Mr. Warner has moved his section and has spoken to it. That is where we are at.

Mr. O'Connor: Therefore, I will move in accordance with a motion I have tabled and circulated as follows--

Mr. Chairman: Wait a minute. This is the notice of motion you gave to me and you are adding to paragraph 3.

Mr. O'Connor: It adds two sentences as follows: "Notwithstanding the Premier's repeated assurances that he had enforced the guidelines, it is

evident that there was little or no effort to monitor compliance. The lack of enforcement by the Premier is particularly significant because the guidelines were changed in September 1985 to better permit compliance by those ministers holding business interests."

Mr. Chairman: Let me ask the committee how it would like to proceed. We can handle this in one of two ways. We can deal with the wording in section 3 suggested by Mr. Warner and subsequently take this as an amendment, or we can add it in now. It really makes very little difference, as we would most likely encounter some difficulty and go line by line anyway. Is there any preference?

Mr. Treleaven: It would be simpler to go with Mr. Warner's first, get the vote on that out of the way and then add this.

Mr. Chairman: Okay. If that is your preference, that is what we can do. Mr. O'Connor, did you want to go on and talk about--

Mr. O'Connor: We are not going to deal with the first part first?

Mr. Chairman: Yes. We are going to deal with Mr. Warner's wording first.

Mr. Sterling: Is there a Liberal motion to amend paragraph 3?

Mr. Chairman: Yes, there is. I have one on paragraph 4. I have another one at the end of the report. There was one on a sheet, which I assume was withdrawn.

Ms. Hart: I was next on the speaking order, I thought.

Mr. Chairman: Yes, you are.

Ms. Hart: I just wanted to speak to that, if I might.

Mr. Chairman: It is your intention to put this motion--

Ms. Hart: All that motion does is change three words, and I wanted to--actually, it changes just one word.

Mr. Chairman: Could you let me know your intention? Do you intend to move the amendment as you have put it here?

Ms. Hart: Yes.

Mr. Chairman: Okay. Mr. O'Connor, do you have anything else you want to say?

Mr. O'Connor: I do want to make argument with regard to my amendment, but as I understand the process, should we not deal with the first couple of sentences, including Ms. Hart's amendment, and then get to mine?

Mr. Chairman: Yes.

Ms. Hart: I propose a change from Mr. Warner's wording in the sentence "He must accept the responsibility of his incompetence." I would change that to "his failure to conform." The reason for this is that not only have we heard evidence of the former minister's personal conduct but we have

also heard evidence of the conduct of others for whom he was responsible in the parliamentary tradition. In my view, the word "incompetence" is a personal word to Mr. Fontaine, and it would be more correct to say, "he must accept the responsibility for his failure to conform" to the guidelines. It is for this reason that I put forward the amendment. Other than that, I am prepared to accept the language put forward by Mr. Warner.

Mr. Chairman: Let us try to make this a little clearer. Your amendment would delete the word "incompetence" and replace it with the words "failure to conform."

Ms. Hart: Yes.

Mr. Treleaven: Is the last sentence not also changed?

Mr. Chairman: Just hold on a minute. That wording is not quite correct: "must accept the responsibility for his failure to conform." These were distributed yesterday, and I am trying to excerpt the words.

The second part of that--let me hear exactly what you want to say.

Ms. Hart: Okay. That is the only change I propose. There was a further change in the last sentence in the amendment that was circulated, and I will withdraw that.

Mr. Chairman: Okay. To be specific, we have an amendment from Ms. Hart to delete the words "of his incompetence" and insert the words "for his failure to conform." No other wording is being proposed at this time. The deletion would be in the third line. Starting at the end of that line, it is proposed that the words "of his incompetence" be deleted and that in its place be put "for his failure to conform."

Mr. Martel: You are accepting the whole of paragraph 3, then?

Mr. Treleaven: No. They are deleting the last two--

Mr. Chairman: Okay. A little more specifically, we would delete "of his incompetence" and insert the words "for his failure to conform." That is the only amendment that is before us.

Interjection.

Mr. Chairman: No. They have withdrawn that. This is an amendment that is now before you. Is there any discussion on the amendment?

14:20

Mr. Warner: As I said this morning, I very carefully chose the words I used when I wrote this motion, and it follows in sequence. We first of all said that Mr. Fontaine violated the conflict-of-interest guidelines. The question of how that happened naturally arises. One suggestion floating around is that it happened because of design, that he purposely set out to break the guidelines. We have heard no evidence to substantiate that.

How else do you explain his failure? The only suggestion I can come up with that takes it away from the realm of saying it was criminal wrongdoing or that he was attempting to use his position as one of influence to gain personally is to say he was incompetent. I do not know how else you explain



how the man failed to comply with the guidelines after being warned repeatedly by various and sundry people.

I chose that word because it does not put us, as a committee, into the bad situation of attempting to reach a decision on which we do not have a factual basis, i.e., that he was doing this by design and purposely set out to use his position as a way to benefit himself. We cannot prove that, but we cannot just leave it.

He broke the guidelines, and we know he broke the guidelines. I am saying it is because of his incompetence. I do not know how else to explain it. If someone else can explain how he did this all by himself, I sure would like to know, but I stand by the words and I think it is the best choice of words.

Mr. Bossy: I have a question concerning David's comments. "Incompetence" puts a label on a person as totally incompetent, and that is what strikes me first. I cannot accept that as far as Fontaine is concerned. Looking back at the evidence that the man himself gave right here, he said he neglected to follow up. In other words, he had turned over those responsibilities to someone else.

Mr. Warner: Would you rather use "negligence"?

Mr. Bossy: For not following up. I am saying "incompetence" is not a very nice label to be carrying.

Mr. Warner: Neither is "negligence".

Mr. Bossy: It covers all bases, but he neglected in this area, and we are talking strictly about guidelines--

Mr. Warner: That is what I said.

Mr. Bossy: We have to zero in on the guidelines themselves, not on the total person being an incompetent.

Mr. Warner: That is precisely what I said.

Mr. Bossy: I cannot read that into it.

Mr. Warner: He had "the responsibility of conforming to the...conflict-of-interest guidelines. He must accept the responsibility of his incompetence." That is what I said. You are suggesting "negligence." With respect, I suggest "negligence" may be a stronger word.

Mr. Bossy: It is based on what he said. Going back to what Mr. Fontaine admitted, that he was negligent, perhaps he should have taken it upon himself to follow up on his own--

Mr. Warner: It is stronger, is it not?

Mr. Chairman: I do not wish to entertain a huge discussion on the choice of one word. We have had the gist of the argument. Are you ready for the vote?

Mr. Martel: It takes it out of the realm of him trying to be crooked and lays the blame for his Lucy-Goosey approach--I think that was the term I

used the other day--to these matters. It takes away any implication that he was attempting to connive for his own benefit. It was his own failure to implement what Mary Eberts and other people told him. He was like a loose cannon on the deck in dealing with the conflict of interest. I think you have to say that deliberately to get away from what would be the other inference, which is that he was doing it to line his pockets, which I do not think anybody was. So there has to be some negligence, if you want, but if you do not--

Ms. Hart: Perhaps I could suggest something that might speak to the concerns of a number of members. I am prepared to withdraw my amendment and put forward a slightly different wording, "He must accept the responsibility of his incompetence in failing to conform to the guidelines."

Mr. Warner: Yes.

Mr. Chairman: Our first amendment is off the table. Mr. Warner has accepted a friendly amendment; so it would now read, "He must accept the responsibility for his incompetence in failing to comply with the guidelines."

Have you accepted this friendly amendment? Okay. We are just doing so well here this afternoon. Are there any other wording amendments that people have? Are you ready for the question on the first three lines?

Those who are in favour of the first three lines of Mr. Warner's motion as amended, please indicate. Any opposed? No? That carried. Those three stand.

We come now to Mr. O'Connor's amendment. He moves that under part 3 of Mr. Warner's motion, following the third sentence ending with the word "guidelines;" the following be added: "notwithstanding the Premier's repeated assurances that he had enforced the guidelines, it is evident that there was little or no effort to monitor compliance. The lack of enforcement by the Premier is particularly significant because the guidelines were changed in September 1985 to better permit compliance by those ministers holding business interests."

That is now placed in front of the committee.

Mr. Sterling: On a point of order, Mr. Chairman: Has the last sentence of Mr. Warner's motion been carried? In other words, the sentence "the Premier must accept the responsibility for not having enforced the guidelines."

Mr. Chairman: Yes.

Mr. Sterling: Okay. I did not understand that.

Mr. Warner: Yes, and I was proposing to add something after that.

Mr. Chairman: Okay, Mr. O'Connor, your motion is now on.

Mr. O'Connor: My concern, and I think the concern of some members as we have discussed from time to time throughout almost all the two and a half months, has been and is the degree to which the Office of the Premier and the Premier himself failed to take a part or did not take a part in the enforcement of his own guidelines, keeping in mind that they were amended in September 1985 in accordance with the wishes of the present government.

We have to be more particular in detailing the Premier's involvement in all of this. Some sympathy has been expressed for the fact that René was hung out to dry, that he was incompetent in doing what he did, as we have just indicated, but that he got very little help, very little guidance, very little assistance. The extent of it, as I believe he indicated, was a 15- or 20-minute meeting with somebody from the Premier's office.

Some of the things the Premier has said with regard to his involvement in this are important, and I want to quote three or four short pieces from Hansard, and I will indicate the date on which he said them, because I think they are important too.

When this matter was first raised by way of a question in the House, on January 28, 1986, the Premier said: "Extensive documentation was filed and, to the best of my knowledge, every little, tiny detail has been tied up and everything is as it should be, in conformity with the guidelines." That same day, he said: "I will personally look into this."

Two days later, on January 30, again in response to some questions from opposition members in relation to the forest management agreement and René Fontaine, he said: "I am satisfied there is no impropriety whatsoever. Having looked into the situation, I am absolutely persuaded of that." Later that day he said, "All the interests were in a blind trust."

Later he said: "Last May"--May 1985, because we are dealing with January 30, 1986--"we asked the various potential cabinet ministers to submit their particular situations, which they did; they were all checked by lawyers. As the member knows, it takes some time to tie all these things up legally. However, it is absolutely in conformity with the conflict-of-interest guidelines, which are handled by Mr. Wright."

Later the same day, he said, "I was aware last May that there was a problem." Later, he said on January 30: "Of course, I acted. Immediately, everything was put into a blind trust. He"--meaning Mr. Fontaine--"conformed to all the legal niceties."

14:30

My concern is that the Premier (Mr. Peterson) indicated to us months ago that he looked into the thing personally, that he saw everything was in complete compliance with the conflict-of-interest guidelines, that all matters were in a blind trust. He was so definitive and so sure that there was nothing amiss; yet, as we found in the course of these hearings, there was plenty amiss, not only at that time but also subsequently when Mr. Fontaine had his three meetings--he had already had one at that point--with a senior civil servant. I need not review all the evidence of the past several months, but as we have found out, the things the Premier was assuring us were facts were simply not facts.

Because of that, there should be a comment or a statement in our findings that implicates the Premier and that brings him to task for having said those things when he did not do the checking personally. He cannot have, or he would have found out the things we did. He cannot have ensured that everything was in a blind trust, because it was not, and so on through the course of the statements he is quoted as saying in Hansard. Thus, the addition of the two sentences.



On the second one, it is a fact that the guidelines were changed in September 1985. It is generally agreed that they were--the word "softened" has been used. Other words have been used to indicate that they were amended or changed to better enable people with business interests to comply.

Mr. Wright indicated to us that it was a matter of ensuring that people with business interests would be able to serve in our cabinet, that the way they had been worded was something of a disuasion to business people with significant assets from entering politics as a profession. That was the reason. I do not disagree with that and I do not dispute that, but the fact that they were changed, keeping in mind that some people had these problems, should have triggered something in the Premier's mind. They should have made it all the more necessary for him to monitor them carefully, because he had watered them down to a certain extent to enable people to comply, and still people were not complying.

Having said all that and taken that significant step of lessening the weight of the guidelines, he should be brought to task and his office should be brought to task with a statement similar to or identical to the one I have put before the committee.

Mr. Chairman: Any comment on the amendment?

Mr. Treleaven: On a point of order, Mr. Chairman: I am wondering whether members are going to have trouble. The two paragraphs are slightly different in content. I know one does follow on from the other. If people have trouble with the two, it might be in order to divide them and have division on them separately.

Mr. Chairman: Any further comment on it?

Ms. Hart: Dealing with the first paragraph about little or no effort to monitor compliance, we have had evidence that there was effort to monitor compliance. Mary Eberts came and testified at length, as did Blenus Wright. It may be that was not an effective effort or perhaps it was misdirected, but it is not factually true to say there was little or no effort to monitor compliance.

Mr. Chairman: It is a judgemental call. I will give you that.

Ms. Hart: I suppose that is one way it can be put. It is a judgement that we have to make when the weight of the evidence is that there was a great deal done. It just did not come up with the desired results.

I have even more difficulty with the second paragraph. It is true the guidelines were changed. They were changed at the suggestion of Blenus Wright, who told this committee that he had been making that suggestion for years.

Mr. Morin: To the previous government.

Ms. Hart: Yes, as well as this one. I suppose again it is a judgement call about whether that was particularly significant. Certain members of the committee have been trying to say all along they were changed solely or particularly to benefit Mr. Fontaine. That has not been borne out by the evidence. To present it fairly, I think it has to be shown that this was not an initiative by the Premier on his own hook. It was a suggestion of the adviser, who had been advising even the previous Premier, to attract high-quality business candidates or members to the Legislature to make the Legislature more representative.

Mr. Warner: I think we should perhaps clear up a bit of misunderstanding with respect to who was helping with this process. As far as we know, there were only two people who had any involvement in monitoring this situation, Mary Eberts and Blenus Wright, neither of whom is part of the Premier's office.

Mary Eberts was hired as a private bar lawyer to assist in the transition, and she had certain functions for which she was paid. She was not a staff member of the Premier's office. Blenus Wright was the Assistant Deputy Attorney General, who obviously by title is not part of the Premier's office either. While those two individuals were of assistance, they were not part of the Premier's office or staff.

The Premier had a singular responsibility, because they were his cabinet ministers. He chose 24 people, and approximately half of them were new members. I would have thought he would have assigned someone from his staff to check up personally. The other two individuals we have mentioned had specific things to do, but they were not part of his staff and they did not report directly to him, with the exception of the specific task Mary Eberts was given, which she discharged. Again, I think it comes right back to the Premier's office or to the Premier himself.

I do not have any difficulty with the first paragraph. The second one is troublesome. I am not sure we need to get into a guessing game about how significant the change in the guidelines is. I remind committee members that we will have an opportunity to look at the conflict-of-interest guidelines when we receive the Aird report, and the committee will deal with the whole question of conflict-of-interest guidelines and how they should be established and how they should be enforced.

What we are dealing with right now is still the Fontaine matter. With respect, I suggest that we not include the last paragraph, but I can accept the first one. It simply strengthens what was already said; so I do not have any problem with that.

Mr. Chairman: Mr. O'Connor.

Mr. O'Connor: I will pass, Mr. Chairman.

Mr. Martel: Dealing with the first paragraph, the Premier indicated he did not handle it very well. If you read today's press reports, I think the Premier indicated he may not have handled it as well as he might have.

I also remind you that in January the Premier had someone look at it. You will recall that when he was here, I raised this matter with him. Someone was supposed to review Mr. Fontaine's potential problems, and the report came back to the House that the minister was squeaky clean. I do not know who in the Premier's office did the investigation, but I suspect whoever did it had a white cane with him, because he did not find anything. He had to be blind. Whoever the Premier put in charge of looking after these problems really might have done better looking for a new job. If I were the Premier and someone like that set me up, he would not be around very long, frankly.

I can understand the position of my friend across the way. There is an old saying that the buck stops here, or something to that effect. In this case, the Premier is the person who brought in the guidelines and there is only one place it can stop, right at his doorstep. No matter how you cut it,

he cannot be excluded from sharing some of the responsibility for what went on, through the people in his office. I think the first paragraph has to stay.

14:40 p.m.

The second paragraph makes the decision that the guidelines were changed to protect a couple of ministers. That is what it says when you cut through it all. I might like to believe that, but I missed a week and was not here for Mr. Wright's appearance. That being the case, we will let the chairman break the tie.

Mr. Sterling: I will deal with the second paragraph, which is the lack of enforcement by the Premier. It is particularly significant because the guidelines were changed in September to permit better compliance by those ministers holding business interests.

I am not sure if it is properly balanced in the meaning that I would like to give to the matter, but when you look at the Eberts letter, it says to him that he cannot have companies, that the master forest management plan does fall outside what is permitted by the guidelines. In other words, he now has three choices: sell his companies or he cannot become a cabinet minister or cannot enter into the forest management agreement.

"As the guidelines now stand, you and your companies would not be able to enter into it. "As we have discussed, I am proposing to the Premier that the guidelines be changed to permit private companies to enter into contracts with the government as long as the minister's interest is in a blind trust," etc.

According to Mr. Wright, of the 24 ministers within the government who were appointed on June 26, there were three who placed an interest in a blind trust: the Premier, Mr. Sorbara and Mr. Fontaine. As a result of that going on and the fact that the setting up of a blind trust was a new instrument or a new proposal by the government to permit more businessmen to be involved in government, I would have thought there would be a burden upon the government to ensure that this instrument worked. I guess that is what I was trying to get out of the second paragraph. If committee members do not feel that is what comes out of it, then perhaps we could look at changing the wording.

Ms. Hart: As a brief reply to Mr. Martel's contention that the buck stops with the Premier, we have agreed already in the previous sentence that the Premier must accept the responsibility for not having enforced the guidelines. To reiterate really does not add anything. There is a judgement call as to whether that sentence in the first paragraph is factually correct, that there was no monitoring.

Mr. Chairman: I sense you are ready for the question. I have a request to split it and do it line by line. The first one I will put to you is the following wording, that under part 3 of Mr. Warner's motion, after the third sentence ending with the word "guidelines," we add: "Notwithstanding the Premier's repeated assurances that he had enforced the guidelines, it is evident that there was little or no effort to monitor compliance."

The committee divided on Mr. O'Connor's motion, which was agreed to on the following vote:



Ayes

Martel, O'Connor, Sterling, Treleaven, Villeneuve, Warner.

Nays

Bossy, Hart, Morin, Newman.

Ayes 6; nays 4.

Mr. Chairman: The second sentence reads: "The lack of enforcement by the Premier is particularly significant because the guidelines were changed in September 1985 to better permit compliance by those ministers holding business interests."

Those in favour of adding those words?

Those opposed?

It loses by a vote of four to six.

Shall section 3, as amended, carry? Is there anyone in disagreement?  
That carries.

We can now move to the part of Mr. Warner's motion advertised as item 4. I have one amendment that I can find to this. Ms. Hart, yesterday you put in front of my nose an amendment to paragraph 4. Is it your intention to move that amendment?

Ms. Hart: Today we put in an amendment in proper form, which I would ask to be substituted for it.

Mr. Chairman: Oh, an amendment in proper form. We are coming up. I have a notice of motion from Ms. Hart amending paragraph 4. The first amendment comes in line 1. As they have come in, we have tried to identify the movers of the motions, if we could. If you are proposing future motions, it will help if somebody will put his name on it.

We will proceed to move with Mr. Warner's section 4. Mr. Warner, do you want to start off?

Mr. Warner: Yes. Part of it was the response I gave here earlier, i.e., that Ms. Eberts was retained by the Premier's office and given specific things to do in connection with the transition period between the outgoing government and the incoming government. Mr. Wright, Assistant Deputy Attorney General, who had been in charge of conflict-of-interest guidelines under the former government, had a similar job with the new government.

I mention in here that I thought it was important to recognize that these two people did the job they were asked to do. I do not think it behooves us to shift the blame from the people who carry the responsibility to people who are hired. If René is to blame, that is who we will blame; if the Premier is to blame, that is who we will blame. We do not start dumping on staff. That is my approach in most things, anyway.

From everything that was presented to us, it was clear that both Ms. Eberts and Mr. Wright did what they were asked to do. Despite that and despite

the instructions, the suggestions and the guidance offered, etc., René just ignored everything that was put in front of him. I thought it was important to put that information in so that the staff would not somehow inadvertently be connected with what went wrong. I am a bit puzzled by the amendment, but I guess we will get to that after we have had the debate on this.

Mr. Chairman: Any further comment in general on Mr. Warner's section 4? I am having a little difficulty with the amendment as well and I am going to ask you to assist me. Because of the way the amendment has been put, it comes very close to flowing in the opposite direction from Mr. Warner's motion. The problem I am having is that it seems to move past simple wording changes to clarify and appears to wind up substantially altering the intent of Mr. Warner's section 4.

Ms. Hart, maybe you could help me by placing the motion and beginning the arguments on it. I will listen to you and see whether I have misinterpreted your amendment.

14:50

Ms. Hart: The first portion of the amendment suggests that the first line in paragraph 4 be amended, merely to make the facts more correct. "Advisers to the minister"--

Mr. Chairman: Let me stop you there. This is where I am having a problem. You say in your amendment that you want to insert the words "at the direction of the Premier." Frankly, I have no knowledge that the Premier directly gave instructions to anybody. There were general instructions and people appointed as advisers to the cabinet. My difficulty is that, although it looks as if it is only a wording amendment--and maybe members of the committee could assist me with this--I am not sure we heard testimony that the Premier directed any of the staff members to do anything, except in a very general way.

Ms. Hart: Mary Eberts was part of the transition team. I was not here for the Premier's testimony but I understand the transition team was working at the Premier's direction. It was reporting to Ms. Eberts and the Premier, I believe.

Mr. Chairman: That is my problem. According to testimony we heard, the connection between the Premier personally and Mary Eberts or anybody else on the transition team is that he set it up. For example, in the case of Mary Eberts, we have evidence that she reported to him verbally on one occasion. That is hardly working at the direction of the Premier.

Mr. O'Connor: I think you are misinterpreting. As I read this, the advisers who are being referred to are the advisers to the minister, in other words, Gagné--

Mr. Chairman: You are looking at the wrong motion. At least, it is a different motion from the one I have.

Mr. O'Connor: Then let us all look at the same motion.

Mr. Martel: It says "Advisers to the minister."

Mr. O'Connor: We do not have that.

it might alter the intent substantively. It is easier to deal with it and leave them to the end. We have a chance to deal with Mr. Warner's motion as he put it and say yes or no, and then subsequently if you want to put a motion, we can do that.

15:00

Ms. Hart: I see your point on that. Perhaps we can stand down that part of the motion to see whether we can come up with some other language.

Mr. Chairman: I will tell you what might be useful. Perhaps you will withdraw your amendment now on the clear understanding that at the end of this section we will give you a chance to put another amendment that might be worded a little differently. How would that be?

Ms. Hart: Are you talking about the entire amendment or just that line?

Mr. Chairman: I am going to point out some problems with other ones too.

Ms. Hart: Perhaps we can talk about all of them and then decide at the end. The next one has to do with Blenus Wright's letter. It seems to me that when you set out the part of Mr. Wright's letter that deals with the obligations, you cannot separate that. At the same time as you are dealing with the obligations, you have to deal with the time period given because the two are so inextricably intertwined. It would not be the same thing to put it in another paragraph later on and that is why--

Mr. Chairman: I do not want to preclude a lot of argument. By my reading of Mr. Warner's motion and the words he chose, he is attempting to establish that the two people who were perhaps most involved in advising the ministers laid out the obligations at particular times, in general all the obligations the ministers would have to meet. At the end of this section, if you want to attempt to draft something that deals specifically with Golden Tiger--getting rid of them by the end of the year or something such as that--it would be a little easier to deal with. I cannot put your amendment on the table without precluding that they also advised him on other matters as well.

Mr. Morin: With which he complied.

Mr. Chairman: With which he may or may not have complied.

Mr. Treleaven: With his amendment, Mr. Warner has attempted right down perhaps to the word "guidelines"--at least the first eight lines--to set out what appears to be quite clear. I do not think those should be messed around with or amended. I would like to vote on them as they are. If you put in amendments, that might turn me around to where I would vote against them. Maybe it should be line by line on this as well. There are three or four sentences there.

Mr. Martel: May I speak to the second motion before you call any vote? The second part--

Mr. Chairman: I am trying to see--

Mr. Martel: Just in general terms.



Ms. Hart: Mr. Chairman, perhaps I can help.

Mr. Chairman: Okay.

Ms. Hart: I would like to withdraw the motion at this stage. I will try to come up with some wording that does at the end what I am attempting to do.

Mr. Martel: Before she brings it back, if she is going to, will she consider what she says in the second portion, which says they "advised him that the deadline for compliance with the conflict-of-interest guidelines was December 31"? That was for assets. That stark statement says you did not have to do anything with the guidelines until December 31. Read it carefully and that is exactly what it says. I do not think that is what you want to say.

Mr. Chairman: I think I know what you are trying to say. Perhaps you will be a little precise in the drafting of the next amendment you place. I think you are concerned about making sure it is clear in the report that he had until December 31, 1985, to comply with the guidelines as they apply to shares in Golden Tiger. Am I right?

Ms. Hart: Yes, you are right.

Mr. Chairman: Perhaps you will take a minute or two and draft something that says that, then that will be a line we could add to the end of this section.

Ms. Hart: I might take more than a minute, but I would like to withdraw the amendment and do my best to come up with alternative wording.

Mr. Chairman: There are no other amendments I am aware of to Mr. Warner's wording.

Mr. Warner: I have a concern about my own motion after a chat with committee staff. I am concerned about the accuracy of my sentence that reads, "Mr. Fontaine, in a statement before the Legislative Assembly committee on July 23, 1986, declared previously undisclosed Golden Tiger shares." When I first went through the July 23 statement, I understood that is what had happened; apparently, that is not factually correct.

Interjection.

Mr. Warner: In his July statement, he made reference to the fact he had previously overstated the holdings. He was making reference back to statements in the House. What he did not do on July 23 was to declare previously undisclosed Golden Tiger shares.

Mr. Sterling: I think he did that in June, did he not; his wife's 10,000 shares?

Mr. Treleaven: At that time, however, July 23, he did declare previously undisclosed shares.

Mr. Chairman: They were shares but not shares in Golden Tiger.

Mr. Treleaven: Yes, in other companies. He declared five of them. New shares, new assets were disclosed at that meeting.

Mr. Warner: Oh. All right. Should we just remove the words "Golden Tiger"?

Mr. Chairman: For the sake of absolute clarity, if you remove the words "Golden Tiger" in the fourth line from the bottom and simply say "shares," you will be accurate.

Mr. Warner: Okay.

Mr. Martel: That is those one-cent shares.

Mr. Warner: I so move.

Mr. Sterling: I think that is unfair in some ways to Mr. Fontaine in terms of dealing with those shares as though they were Golden Tiger shares. The problem was that these were being disclosed a year later. I think it was in the June statement that he talked about his wife's 10,000 shares. Is that when he discovered them?

Mr. Martel: There were also shares he had not declared; \$500 worth that covered a page and a half.

Mr. Chairman: Mr. Warner, are you content with the motion for the deletion of the words "Golden Tiger" in front of the word "shares"?

Mr. Warner: I am not sure. Mr. Sterling seems to be unsettled about that.

Mr. Treleaven: I think it is the logic of the way it is strung together whether the actual details or the factuality of it is disturbing him.

Mr. Sterling: I agree with Mr. Martel about the value of the disclosure of those shares in terms of talking about the conflict of interest. It is a minor point.

Mr. Warner: Leave it out entirely.

Mr. Sterling: I would prefer to do that.

Mr. Warner: Okay.

Mr. Chairman: You are now removing a sentence.

Mr. Warner: Yes, strike the sentence.

Mr. Chairman: Which sentence is it?

Mr. Warner: "Mr. Fontaine, in a statement before the Legislative Assembly committee on July 23, 1986, declared previously undisclosed Golden Tiger shares."

Mr. Chairman: That sentence is now removed.

Mr. Warner: Strike it in its entirety.

Mr. Chairman: Is there any further discussion on other matters that appear in part 4 of Mr. Warner's motion? Are you ready for the question? Those in favour of adopting section 4, with amendments? The motion is carried.

Now, do you have any help for me?

Ms. Hart: I cannot listen and draft at the same time.

Mr. Morin: Here is one I would like to propose. It should be, "Advisers to the minister appear to have made every reasonable effort to properly discharge their duties."

Mr. Chairman: Where is this coming from?

Mr. Morin: What we discussed at the beginning, number 4.

Mr. Chairman: Hold on.

Mr. Morin: We withdrew it to come up with a new one; that is what we are doing. Was that not the case?

Mr. Warner: That is what the chair said.

Mr. Chairman: Okay.

Mr. Warner: Somebody confused the chairman.

Mr. Morin: The chairman gave us the authorization to rethink.

Mr. Warner: He said we could carry it and then allow them the opportunity to redraft something. That is what I heard him say.

Mr. Chairman: I just want to be clear.

Mr. Sterling: The first sentence is what Mr. Morin just said.

Mr. Chairman: Let me get clear what you are putting. This is from this sheet, which contains several proposed amendments to different sections. You received this yesterday, I believe. Do we have this in writing? I have yesterday's sheet; I do not have one for today.

Mr. Morin: I believe you had yesterday's sheet.

Mr. Chairman: It is an amendment to paragraph 4?

Mr. Morin: I have added something else to it.

Mr. Chairman: Not be too casual, but what did you add to it?

15:10

Mr. Morin: Let me reread it to make sure you have understood it well:

"Advisers to the minister appear to have made every reasonable effort to properly discharge their duties. In July 1985, Mrs. Mary Eberts advised Mr. Fontaine that at some point in the future he would have to sell his shares in Golden Tiger or put them in a blind trust. Mr. Blenus Wright later advised him that the deadline for compliance with the conflict-of-interest guidelines was December 31, 1985. Mr. Fontaine complied with this deadline." I would like to add, "However, the appearances were such that it would have been better for Mr. Fontaine to sell the shares earlier than he did."



Mr. Chairman: Where does that come from?

Interjection: That is the one you said was out.

Mr. Chairman: They took it out this morning. Pass this along. Now you have it. Now we are flying.

Mr. Martel: That will be contradicting what is there. He did not do so--

Mr. Chairman: Okay. Now just hold on a minute.

Interjections.

Mr. Chairman: The problem is that we found it from yesterday's version, and we found today's version on the floor. It does not have a name on it, which is why it did not get much consideration. It is a reasonable amendment, and we are dealing with Ms. Hart's proposal. If you reach down on the floor, somewhere near your left foot you will find this amendment.

Mr. Martel: Distinguished papers.

Mr. Chairman: Essentially, it is the same proposed amendment that you were made aware of yesterday. It is rewritten to include the sentence "However, the appearances were such that it would have been better for Mr. Fontaine to sell the shares earlier than he did."

I am prepared to stretch it enough to say it is in order to add this to the end of this, provided Ms. Hart accepts it as meeting her needs for her previously withdrawn amendment. Does it?

Ms. Hart: Yes. It does.

Mr. Chairman: Good. We are in business. It is not hard to reach a consensus.

Mr. Martel: Wait a minute. There is a problem.

Mr. Chairman: No. Mr. Morin has the right to put the--

Mr. Martel: If you accept the amendment, Mr. Chairman--I am not trying to exclude it.

Interjection: It is in order.

Mr. Martel: You say it is in order, but if you look at what we just passed, to conform with the guidelines, he did not do so.

Mr. Chairman: Let me be specific. I should not do this, but I will do it anyway. The point that Ms. Hart wanted to make in her previous amendment was that on one aspect of conforming with the guidelines--that is, referring to the Golden Tiger shares--he did conform, maybe only in a technical sense, and maybe in a lot of other senses of the guidelines he did not, but he did have until the end of December 1985 to file, get them in a blind trust, sell them or whatever. In that respect, this amendment identifies that singular aspect of it. It says he did and goes on to say it would have been better to sell them earlier. That is what the amendment says.

Mr. Martel: All right. Now can I speak to it? In its present form--I am not trying to exclude it--depending on whether you want to start to put it in--

Mr. Chairman: They want to put this on the end.

Mr. Martel: The whole thing?

Mr. Chairman: Yes.

Mr. Martel: First, sentence for sentence, it is repetitive.

Mr. Chairman: Yes.

Mr. Martel: I do not think you should have that first line. Second, I would hope that they would simply write a section which we could tack on to the end which says something to the effect that Mr. Fontaine was told to sell, he complied with the deadline, however, the appearance was such, etc. Could you not clear it up by adding another paragraph, reducing it to some extent, without appearing to be repetitive? If we add it the way it is, it does not quite fit in with the general tenor of 4 as a whole.

Perhaps they can add something, starting with the words, "With respect to the Golden Tiger shares, Mr. Fontaine was advised that at some point in future he should sell or put them in a blind trust. Mr. Wright gave him the deadline of December 31. Mr. Fontaine complied. However, the appearances were such that it would have been better for Mr. Fontaine to sell the shares earlier than he did." That would make it somewhat easier in the flow of it.

Mr. Sterling: I do not know how we reconcile this motion with what this committee decided under section 2. I thought this committee decided under section 2 that the value of the Golden Tiger shares increased at a time when the shares should have been sold or placed in a blind trust. Therefore, we came to the conclusion--or at least I thought the committee came to the conclusion--that taking the Mary Eberts letter and taking the basket clause of the conflict-of-interest guidelines, they should have been sold. That was the decision of the committee. That was the way it was.

Mr. Martel: Maybe my friends would take a look at it then, because if they take the basket clause into consideration, do you still want to move it?

Mr. Warner: First, I did not intend that each of the sections would be taken solely on its own, but there was an overall flow to the whole thing. The proposal here is that Ms. Eberts advised Mr. Fontaine that at some point in the future--that is not exactly what she says in her letter. She makes the same kind of pointed statement which we have done so far in our motion, namely, "You know that the shares you and your wife hold in listed companies (Golden Tiger Exploration or any resources) will either have to be sold or placed in a blind trust." She does not mention "at some future time," give him a particular date or anything. She just makes that statement, "You have to sell them or put them in a blind trust."

Norm is right. We went through the exercise that, although the guidelines said that--I guess you could categorize--in general situations you have until the end of December, the special clause said, "We recognize that there are special situations." We identified this morning that the special situation was that the minister of mines was holding shares in a mining

company that was receiving grants from the province--I take that to be a special situation--and demanded a different response from one of simply complying by the December 31 deadline.

I think the wording is just fine the way it is. It is straightforward and it indicates--again coming back to the purpose of the section--that two people, whose job it was to advise Mr. Fontaine, did so. They cannot be held responsible. They did not act irresponsibly. They did their job. Unfortunately, Mr. Fontaine declined their advice. I would like to see the section stand the way it is.

Mr. O'Connor: For those reasons, it does fly in the face of the wording of section 4 as it already stands and of section 2; besides which, perhaps more important, the statement "Mr. Fontaine complied with his deadline" is not correct. He did not comply with it in regard to all his shares. His wife's shares were not sold by the deadline, and he is responsible for his wife's shares under the guidelines. It is also not correct with regard to the 17,000 shares held in escrow which he forgot about. To that extent, the statement is not even correct; so I do not know that we can go ahead with it in this form.

Mr. Morin: Why did Mr. Wright tell him he had until December 31 to do so?

Mr. Chairman: Because Mr. Wright, I take it, was not aware of those other two packages of shares at that time. They had not been disclosed at that time.

Mr. Morin: I would like to present the motion as it was before, except I would like to take off "Advisers to the minister appear to have made every reasonable effort to properly discharge their duties." Then it would start simply, "In July 1985...."

15:20

Mr. Chairman: Okay. Mr. Morin has asked to delete the first sentence. Is there any further comment?

Mr. Treleaven: In the last sentence of that amendment we are getting into dangerous water about appearances. We are now editorializing and speculating on what appearances would have been like: "It would have been better if you had done this, better if you had done that." That is totally out of place in a report of this kind.

Mr. Warner: We agreed earlier that we would try to stay away from that.

Mr. Martel: There is a problem too. It says, "Mrs. Mary Eberts advised Mr. Fontaine that at some point in the future...." I do not know where she says that.

Mr. Chairman: I believe she made reference to that in her letter.

Mr. Morin: It was confirmed by Blenus Wright. It was confirmed, I believe, by Mr. Gagné, who said there was no rush.

Mr. Chairman: We have been around the room on this. Are you ready for the question?



There is a deletion of the first sentence; so Mr. Morin's motion now reads that we would add these words to the end of section 4:

"In July 1985, Mrs. Mary Eberts advised Mr. Fontaine that at some point in the future he would have to sell his shares in Golden Tiger or put them in a blind trust. Mr. Blenus Wright later advised him that the deadline for compliance with the conflict-of-interest guidelines was December 31, 1985. Mr. Fontaine complied with this deadline; however, the appearances were such that it would have been better for Mr. Fontaine to sell the shares earlier than he did."

The committee divided on Mr. Morin's motion, which was negatived on the following vote:

Ayes

Bossy, Hart, Morin, Newman.

Nays

Martel, O'Connor, Sterling, Treleaven, Villeneuve, Warner.

Ayes 4; nays 6.

Mr. Chairman: The motion is carried as amended? Agreed.

On section 5, I should indicate at this time that I have no further notice of amendments until we get to the end of the report.

Mr. Martel: Maybe my friend would entertain a fast word and put in "originally" or "initially" to help clarify that paragraph.

Mr. Chairman: Before we get started on it, we have a proposal from Mr. Warner to add the word "initially" so that section 5 would read, "Initially, Mr. Paul Martin, president of Golden Tiger...."

Interjection.

Mr. Warner: No. I will explain why.

Mr. Sterling: There are other passages that have to be amended to put it in the proper context as well.

Mr. Chairman: In your opinion.

Mr. Sterling: It has be "was important."

Mr. Chairman: "Was important"?

Mr. Sterling: Yes.

Mr. Chairman: Are there any other wording changes of that nature?

Mr. Warner: No. It reads properly.

Mr. Chairman: Two wording changes have been initiated. We would add the word "initially" in front of the first sentence, and in the third line we are striking the words "would have been" and inserting the word "was."

Mr. Warner: Correct.

Mr. Chairman: That motion, as amended, now stands before the committee. Is there any discussion on it?

Mr. Warner: What concerns me--and I think it should be a concern especially for this committee, because we are the Legislative Assembly committee, which looks and procedure and so on, but also of effect to other committees--is that to our surprise, I guess, as it unfolded, the Speaker had discretion in the issuing of a warrant.

The committee decided unanimously that it wanted a warrant issued. The Speaker then decided he was not going to issue the warrant. This raises a question, aside from the Fontaine inquiry, about the effectiveness of committees and about what the procedure is and what the role of members is--or of committees, for that matter--in having that warrant issued.

To summarize what I believe the Speaker was saying, it was, "It cannot practically be served; therefore, I am not issuing because I know it cannot be served." Our argument basically was, whether or not it can be served, we want it issued because at least it is an outstanding warrant and if this person shows up in Ontario then it can be served. We at least want the thing issued. But it was not issued. It seems to me that if committees are to be effective then it is proper for us to review this process, and I would like to see it in as part of the report.

Ms. Hart: I do not have any difficulty with this and with the amendments, and I am prepared to accept it. I would question its position in terms of the final report. We have not gotten to paragraph 6 yet, but it seems to me in the scheme of things it is much more important in this committee's--

Mr. Warner: At the time that I drafted this, Mr. Martin had not magically appeared; so you would suggest that it become a--

Mr. Chairman: I do not think that makes any difference.

Mr. Warner: That is fine with me.

Ms. Hart: If we are indicating what is significant to the committee, personally, to me, that was not talking to this.

Mr. Martel: What worries me is the position taken by the Speaker as a servant of the Legislature. That is his role. I find it difficult to accept that when a committee asks that the Speaker issue a warrant, the Speaker as a servant of the Legislature would say he could not. The reasons he gave are legitimate to some degree in the sense that it is outside of Ontario, but I think the refusal to do so flies in the face of what the committee had asked the Speaker to do and sets a precedent that we should flag.

I do not think we need overdo it, but I think it is fair to emphasize that it is not up to the Speaker, as a servant of the Legislature, to say no at that stage. I might be wrong, but I do not think so; and he might want to refer back to us later on and say, "Okay, tell me how to deal with this sort of thing." That would be fair game to assist the Speaker.

I think it puts him in an awful position when he takes it upon himself, as a servant of the Legislature, to say no. From that point of view, I think it should be included, more for his assistance, because I am sure he is going to send it back to us.

Mr. Treleaven: Just to speak in defence of the Speaker without it being necessarily my personal beliefs, it is not clear. We, as a Legislature, made recommendations about getting Speaker's warrants from this committee in between sessions when the House was not sitting. We did not state whether there was any discretion on the part of the Speaker to reject these requests or otherwise. He has taken the position on precedent that it would be bringing his warrant into disrepute; it can be served, but it is just whether it is effective upon the person served. It would be putting his warrant into disrepute to have given it.

At this point I think it is up to the Legislature or this committee, as you will, to make its recommendation that he has a discretion or he performs only a mechanical function.

Mr. Chairman: Just for your information, he does have the discretion; that is clear.

Mr. Treleaven: Unless it is taken away from him by the Legislature.

Mr. Chairman: I probably should not intervene here, but I think Mr. Warner is trying to make the point that this matter has to be cleared up. It is not meant to be critical of anybody or to challenge his authority or anything like that. There is some validity that when a legislative committee, by motion of the House, is given the power to get such warrants and it meets with some difficulty with discharging them for whatever reason, it is a problem we have to deal with.

Mr. Sterling: I disagree with Ms. Hart in terms of the parts of this issue in relation to the others and should get some suggestions in terms of dealing with the numbering.

Mr. Chairman: Are you ready for the question on this one? Those in favour of section 5, as amended? Carried.

15:30

We are now down to section 6. I have a couple of amendments that have been proposed at the end of the report. Mr. Morin, I have one from you. As a matter of fact, I have two versions of the same motion. Are there other amendments or motions that members want to put in this regard? This seems to me to be the last logical--

Mr. Warner: Do you mean to this section or a new section?

Mr. Chairman: New sections or anything.

There not being any, the motion I have is adding a footnote to the end of the report. I will leave it in that way, and we will deal with Mr. Warner's section 6. Any comments on it?

Mr. Warner: It is straightforward.

Mr. Chairman: Those in favour of section 6 as put? Any opposed?  
Carried.

I have notice of one other amendment. Mr. Morin, which version of it do you want me to put?



Mr. Morin: Which one are you referring to, Mr. Chairman?

Mr. Chairman: I have one that has your name on it--

Mr. Morin: Yes. That is a motion by itself.

Mr. Warner: I have three.

Mr. Chairman: Let me try it this way. This is a statement by itself, I guess; that is the way you want it put. Right?

Mr. Morin: That is right.

Mr. Chairman: Mr. Morin moves that the following be added to the end of the report: "The committee has no reason to believe that Mr. Fontaine has lied to--

Mr. Morin: No, that is not the one. The one you should read is the one that says, "Mr. Fontaine sold his Golden Tiger non-escrow shares in early December."

Mr. Chairman: This one: "Mr. Fontaine sold his Golden Tiger non-escrow shares in early December in compliance with the guidelines, so as to minimize his loss. Also, there is no evidence that Mr. Fontaine was motivated by financial gain. Although Mr. Fontaine should have sought other means to conclude the long-standing negotiations surrounding the Hearst forest management agreement, his involvement was motivated by a desire to serve his constituents."

That is the motion you want put?

Mr. Morin: That is correct.

Mr. Chairman: What about these other two notices?

Mr. Morin: Let us pass this one first and then I will pass the other.

Mr. Chairman: You still intend to proceed with those? Okay. Just so that I have an indication of what is here.

We have a motion before the committee. It is in order, whether you like it or not. Any debate on the motion?

Mr. O'Connor: The difficulty I have with this is the one we have discussed at length in the past couple of days. That is the whole question of getting into motivation, getting inside René's head and determining what his intentions were or were not. I thought at the outset that we decided not to try to take that step, and that is what this does. It imputes motives of honesty to him, and they may well be the motives that motivated him. I have some difficulty with even entering into that subject, and I thought we had agreed not to.

I think we should leave the report as it has been drafted. It has attempted to stick to facts which are unequivocal and which are conclusions a majority of us were able to draw from the facts that were presented to us without determining what was going on in René's head at the time he was doing or not doing some of the things he should have been doing.

Mr. Warner: I have a similar concern. I appreciate why Mr. Morin brings this forward. This has not been a pleasant business. I can think of much better ways to spend three months, but it was a job that had to be done and we did it. René is a very likeable guy and we just do not want to hang him upside down in a public square at noon.

When I set out to draft the motion, I tried to deal with things that were straightforward and factual and not to deal with motivations. What you have introduced into the motion is that his involvement was motivated by a desire to serve his constituents. No doubt, just making that statement will spark a little discussion on what the motivations were. I do not want to get into that guessing game. I know there was a set of guidelines and he did not comply with them. There is a certain acknowledged way to do things when you are in the public eye; he did not follow it. He did not do things properly and we have said so. To try to figure out what was in René's head as he did it is a futile effort.

I am not precluding some other kind of wording, because I think I fully understand what my friend is trying to do, but I cannot accept what is here. If he can come up with something else, I am amenable to that. If we have to wait a little while, that is fine too.

Mr. Martel: If I am right, yesterday when I spoke about the amendment I was going to move, I indicated I hoped I had put in a positive statement, if my friends across the way wanted to put in something to the effect that once the Ministry of Natural Resources involved Mr. Fontaine, he, as the local member, got involved to try to resolve the dilemma. That means going back, and I am not sure we want to go back because of the danger of opening the whole can of worms again.

Forgetting Golden Tiger for the moment, I think there was a difficulty for Mr. Fontaine, which we do not mention anywhere, about what a member does who realizes that the future of his area depends on getting a forest management agreement, which is going to give longevity to the jobs in the area and so on. That is what I was referring to yesterday.

I thought the Liberals were going to come back with something in that vein to show that the reason he jumped into the middle of the fray was not to deal with the terms of the forest management agreement but to deal with the one problem that prevented it from becoming a reality. That is what I was hoping they would come back with and insert somewhere in the section, saying that he had a conflict, but he jumped into the fray. It might be motives, but I do not think he did it--and I want to say this honestly--for his own benefit. I thought he was involved as a member, as are most of us, in something that meant the future of the area he lived in.

I do not know how to put it, but I would not be averse to something along that line going in somewhere, carefully placed. If you want to think about it for a while, as my friend says, I am not averse to it. I am sure all of us recognize the dilemma for him in that respect. I do not know how you would word it to give it the proper kind of connotation, which I am trying to give it, but I think it has to be looked at.

Mr. Sterling: I have some sympathy with this kind of statement in some form or other, but I am a little concerned with this wording. First, with respect to the Golden Tiger shares, I am not sure they are so important. He should have sold them and he should have known to sell them, but he did not sell them. I believe he probably did not think in his own mind that he should sell them or he thought he had until December 31 to sell them.

I am not as convinced that he did not know the share was going up. I do not have a problem with that. I do not find it a problem that, if he did believe all those aforementioned things, he said, "I am going to wait until December to sell them anyway, because I have until December and I think the stock is going to go up." I have no problem with that part of it.

15:40

The part of most concern is when you mix motive with benefit. That is the part of the distinction that becomes difficult. Because the man benefited or will benefit, then the problem is that if people see that there is a future benefit, they will assume the motive is there. That is the trouble in drawing the distinction.

I think his primary motive when he went to meet Therriault and those people was to get the thing together for his area as an MPP. That was his primary motive. I cannot tell you whether he--

Mr. Morin: On the one hand, you say I cannot talk about motives, but on the other, you talk about motives.

Mr. Sterling: I thought this was in the motion.

Mr. Chairman: Perhaps I can help a bit. We have all had through the course of the hearings an opportunity to put on the record our feelings about motives, good or bad intentions, whatever. In the finding or conclusion section of the report, we pretty much tried to avoid that. One cannot say we did not make these observations; we did, everybody from all three parties giving somewhat different opinions on this. They are in Hansard.

The question is, do you want to include in the conclusion section a motion, such as this one, which may carry? It seems reasonably obvious to me that this motion is not going to carry, but if you want to pursue that, I suggest a subcommittee be struck to draft such a motion. You may well say--and, I guess, when you vote on this you will give me an indication--everybody's assessments of his intentions are in the transcripts of the hearings. Outside the door you can say whatever you want to say. In the main part of the conclusions of this report, it is not appropriate for us to do that.

Mr. Treleaven: It would be well said.

Mr. Chairman: You will be the ones who will make that determination. You have a motion before you. The motion is in order. We can debate it further if you want to debate it further.

Mr. Sterling: What I said about Heart Forest Management is that René Fontaine was trying to put together the deal, which was falling apart. The problem is, as I said before, what was good for the Hearst area is good for René Fontaine and his family. There is no way to get around that. That is why I think he was placed in an impossible situation. It was inevitable that this thing happen.

As far as motives go, I am only giving the benefit of the doubt that the first interest was the Hearst area, but I do not know how you divorce yourself from that totally when you are a substantial owner of the benefit in the end. I do not think you can divorce yourself from it. I do not think it was in his mind, but it will happen. That is the trouble when you are dealing with motive and benefit.



Mr. Treleaven: To let the chair and other people quickly know where I am, I am with members over here and Mr. Sterling. I know what Mr. Martel wants to do. He wants to get some little message in here, but in trying to get that message in, he is going to open up this can of worms to where we have to come down on one side or the other. I am looking through this motion to the next one, "that the committee has no reason to believe Mr. Fontaine has lied or deliberately misled," etc. I do not think we want to get into voting for or against this.

Mr. Morin: I have not presented that yet.

Mr. Treleaven: That is correct.

Mr. Morin: There will be further time to discuss it. Let us do one thing at a time.

Mr. Treleaven: Right. I think it is very dangerous to put the members of this committee to the point of holding up Mr. Fontaine's morals in the air and saying vote for or against them. It is very dangerous. I do not think we should be doing it.

Ms. Hart: What this committee is dealing with is a most valuable possession, that is, Mr. Fontaine's reputation in public life. We have judged him pretty harshly in the concluding section of the report, and yet throughout, as you have indicated on Hansard, virtually every member of this committee at one time or another has said he or she thought Mr. Fontaine was acting in the best interests of his constituents.

If we merely leave the report as it is without any comment at all, then all of that was just air. Nobody reads Hansard. What they read is the report. What everybody has been saying is pious perhaps, but if we truly believe Mr. Fontaine was not acting primarily for personal gain, or his motivation was not personal gain, then we are being pretty two-faced if we do not put it in our recommendations in some form or other.

I am prepared to be flexible about the wording, but I am not prepared to just let it go, to say that all these pious renderings by the members of the committee did not mean anything. If they meant anything and if we truly feel as strongly about the reputation of one of our colleagues, then we should be able to come up with something in the report that reflects what has been said throughout in Hansard.

Mr. Villeneuve: In the light of what Ms. Eberts told us and the letter she produced dated July 9, in the light of what Mr. Martin said and in the light of a number of things revolving around some of the findings of Golden Tiger--the value of the shares, etc.--I suggest strongly that this motion be withdrawn.

Second, regarding the FMA, I think René Fontaine was placed in a totally impossible situation by the Premier (Mr. Peterson). He may not have known the character of the man, but he was placed in an impossible situation that if he were to act, he was in trouble, and if he were not to act, he was in trouble. Whether the Premier knew this man, René Fontaine forgot that he was no longer the mayor of Hearst and that the political game he was playing in was considerably larger.

I cannot support this particular amendment. I would like to see it withdrawn and not have to vote against it.

Mr. Chairman: Do any other members wish to comment on the motion? I take it that you still want to put the motion?

Mr. Morin: Yes. I would like a vote on it.

Mr. Chairman: Those in favour of the--

Mr. Morin: A recorded vote.

Mr. Martel: May I make a suggestion--and people may want to run this around quickly to see whether it will fly--that you drop everything except the last sentence and consider putting it in that section: "Mr. Fontaine, because he had a financial interest with Hearst Forest Management, therefore should have refrained from any discussion or involvement whatsoever. His failure to comply created a serious conflict. Although Mr. Fontaine should have sought other means to conclude the long-standing negotiations surrounding the Hearst forest management agreement, his involvement was motivated by his desire to serve his constituents."

Mr. Chairman: Where do you intend to insert this? In what section?

Mr. Martel: I would go right back to my amendment of this morning which carried.

Mr. Chairman: To which section of Mr. Warner's motion?

Mr. Martel: To what I called 2(b) this morning and which, for identification purposes, now is the third paragraph and reads: "Mr. Fontaine, because he had a financial interest with Hearst Forest Management, therefore should have refrained from any discussion or involvement whatsoever. His failure to comply created a serious conflict."

15:50

Mr. Warner: That is the part we have already passed.

Mr. Martel: Yes. "Although Mr. Fontaine"--

Mr. Chairman: I have a procedural problem with it and you can help me out. We carried those section by section, in some cases line by line, at the end of which we put a motion that said, "Shall the section, as amended, carry?" I would have great difficulty in opening up that section and then not listening to amendments to open up all the other sections. By unanimous consent, you can do what you want, but if that is your desire, you would have to get a motion to do so by unanimous consent of the committee. I see the objections being raised already.

Mr. O'Connor: Not necessarily so. I can sympathize with what is being attempted here. However, at the outset of our deliberations on the final six points of our report, I thought we agreed we would not get into the whole question of motivation. I therefore backed off on some motions I was going to make, some additional wording that I would otherwise have put in the report. If we are going to open up that one section for the purpose of adding this sentence, for which I have some sympathy, I want it all opened up and I want to attribute motive in clauses 1, 2, 3, 5 and 6. I will be glad to go back and do that.

Mr. Chairman: That is basically my problem. I would suggest that if

we were to proceed by way of amendment in the manner Mr. Martel suggested, I would need unanimous consent. Is there somebody here who wants to seek unanimous consent to do that? Ms. Hart?

Ms. Hart: No. I want to suggest, as an alternative form of proceeding--because I see the difficulties you have presented--that we merely add it as a separate paragraph at the end.

Mr. Chairman: As it now stands, it would be a motion unto itself and if it went anywhere, it would go at the end of the report. Do we want to proceed to put that motion now?

Okay. Mr. Morin has moved the following motion, which I will read for you:

"Mr. Fontaine sold his Golden Tiger non-escrow shares in early December in compliance with the guidelines so as to minimize his loss. Also, there is no evidence that Mr. Fontaine was motivated by financial gain. Although Mr. Fontaine should have sought other means to conclude the long-standing negotiations surrounding the Hearst forest management agreement, his involvement was motivated by a desire to serve his constituents."

The committee divided on Mr. Morin's motion, which was negated on the following vote:

Ayes

Bossy, Hart, Morin, Newman.

Nays

Martel, O'Connor, Sterling, Treleaven, Villeneuve, Warner.

Ayes 4; nays 6.

Mr. Chairman: Are there any further motions?

Mr. Morin: Yes. I have another one.

Mr. Chairman: Can you identify it for me?

Mr. Morin: It is a motion that the following be added at the end of the report:

"That the committee has no reason to believe that Mr. Fontaine has lied to or deliberately misled the committee, the Legislature or the public in connection with any of the matters which have been the subject of the committee's investigation."

Mr. Warner: I am not sure this is in order.

Mr. Chairman: Just give me a moment. First, I am troubled slightly by the motion. I have made people who made any such inference during the proceedings of this committee apologize and withdraw. We did have an incident in which a member outside of the committee, it is alleged, issued a press release in which certain allegations of this type were made. The member came back to the committee and was allowed to make a statement and withdraw that.



The problem I have is that this question, not having been put to the committee--on the record, no one has said such things to the committee--on the record here as part of our proceedings, allegations of this nature have not been made.

If it were worded in a slightly different way, I think we could accept it. I am going to listen to some argument pro and con on it before I give any rulings on the matter, but the problem you have got me into is the language that is used, particularly when we have studiously avoided allowing anybody else to use language of a similar nature before the committee. If an allegation were put, for example, that a member had misled a committee and if that were the reference from the House, it would certainly be in order to deal with motions of this kind. Since no such allegation exists--and I am not naïve enough to think there is not an inference of that around there; a lot of the hearings and deliberations we went through were to try to assess who told us accurately what had happened. We went out of our way to provide Mr. Fontaine with a second opportunity to clarify any discrepancies that might have been there. I can think of ways you could word a motion of this nature that would not cause the chair a problem. However, as it is worded now, it is a little like asking, "Have you stopped beating your wife?" You cannot win.

For example, I am not sure that it would be parliamentary to allow anybody here to vote against it, because in voting against it the clear inference would be that somebody did lie. I cannot let you say that and I am not sure how I would let you vote on it. I am going to reserve my ruling for a little while and listen to the debate back and forth. You clearly have me in a problem area. I cannot win for losing on this motion and I do not think you can either, so persuade me.

Mr. Treleven: On the point of order, as to what you mentioned last, I do not think the chair has the capacity to stop us from voting for or against any motion of any kind that is put before us. I do not think you can stop us from voting for or against, yet if the motion fails, you are stuck with the inference. You have an unparliamentary inference.

Interjection.

Mr. Treleven: A good point of order, as you have said, but I do not think you can stop us from voting for or against it. It is a motion.

Mr. Chairman: Watch me.

Mr. Treleven: You cannot do that. If you find it to be in order, you then cannot--

Mr. Chairman: Can you assist me a touch by addressing yourself to the question of whether you think this is in order? To be quite blunt about it, some unparliamentary language is used in the motion; that is my difficulty.

Mr. Warner: I submit that this motion is not in order. If the motion were to be placed and carried, then the members of the committee would have said that another member of the House lied, which is not permitted. We would then all be removed.

Mr. Martel: We are all honourable gentlemen.

Mr. Chairman: We are not all honourable gentlemen.

Mr. Warner: There is a step before that. What really makes this motion redundant is the fact that the principle is that all members are honourable; that is, whatever is said in Hansard is accepted at face value. That is why we are not permitted to claim that others have lied in the House and in committees, or deliberately misled; that is equally unparliamentary. If the chairman accepts this motion, he will not only place himself in a bad position but he will also place members in an untenable position in terms of voting on it. Whether you vote for or against, you are in an untenable position. I suggest it is out of order. Perhaps the mover will simply remove it. If he were to do that, at the appropriate time I will have one last suggestion as to a way out of this dilemma.

Mr. Chairman: I will hear one more person from the Liberal side on the point of order.

Mr. Morin: You are asking me to withdraw the motion.

Mr. Chairman: No, I am not asking you to withdraw it; Mr. Warner is.

Mr. Warner: I did.

Mr. Chairman: He does that.

Mr. Morin: The reason I brought it before us was that it was already brought before you by Mr. Sterling.

Mr. Sterling: No, I did not.

Mr. Morin: Yes, you did. Let me finish. He brought it here. He said: "It is too late. I have created some damage now with a statement I made outside this House." He brought it back here, right here, and that is my problem as it is yours. It is not here before us. Let me finish. I believe there is an old adage in French. We say, "La nuit porte conseil," wisdom comes with time. Give us 12 hours and we will think about it. Possibly, I will simply rephrase it.

16:00

However, my main concern is not the conflict of interest. There was obviously a violation of conflict of interest. We have proved it. What I am worried about is that the reputation of a man is now being questioned by a lot of people. Do not forget that a lot of people read the newspapers. They read them as authority, as we all do. They do not go into details. Their first impression is the message they have read.

What I am suggesting is for the committee to alleviate at least some of that problem, to erase--which is totally impossible--some of that damage. That is what I am saying.

Mr. Warner: But you cannot do it this way. It is not normal.

Mr. Morin: That is why I propose to do it.

Mr. Chairman: Do not argue. I have listened to the wisdom in the room and I think I am prepared to give you a ruling. I am going to rule that this motion is out of order because it uses unparliamentary language.

I would quote a simple precedent here. When a member of the committee

used language of a similar nature, I asked him to withdraw and he did. It is alleged that a press release went out using similar unparliamentary language. That member went out of his way, albeit a bit late, to arrive at the committee, make a statement and apologize for that.

On two occasions during the course of these deliberations we have dealt with the matter of unparliamentary language. I appreciate the point you are trying to make, and we cannot preclude other motions, but this one is out of order and we will not deal with it.

Mr. Warner: I have one suggestion that members may wish to consider. If you want to add a point at the bottom of the report, you may consider the remarks Mr. Fontaine made himself last Friday and use some of his words.

Specifically, on page 4, at the bottom of the first paragraph, you may wish to say in the report, 'Mr. Fontaine stated, 'My motives were honourable, but I see now that my actions could have been interpreted differently by some.'" That would complete the report.

Mr. Chairman: Can you give me a copy of that?

The suggestion or the motion from Mr. Warner is that at the conclusion of the report there would be an excerpt from Hansard, attributed, with the following words from Mr. Fontaine, "My motives were honourable, but I see now that my actions could have been interpreted differently by some." Is there any discussion?

Mr. Morin: This committee is fair. Whatever they say, this committee is fair. There may be some nuances sometimes that are difficult to accept.

On the other hand, I think it is our duty to repair some of the damage that has been done. To me, just to quote Mr. Fontaine would not be sufficient. I think we should, as you proposed a moment ago, reserve time and think about it so that this committee will have assessed not only some of the problems that came about but also some of the problems we have created for a man and we will have repaired some of that. That is what I am saying. In whatever form, in whatever words we use, at least the committee will appear to be fair. That is what I am aiming at.

Ms. Hart: Since four o'clock has passed and I, for one, would like a little time to consider this recent motion by Mr. Warner, can we adjourn at this stage and come back tomorrow?

Mr. Warner: On a point of order, Mr. Chairman: I want to make sure it is very clear. I have offered a suggestion.

You will recall that the initial motion with respect to this point was from the Liberals. I said I was sympathetic to listening to constructive suggestions. So far, I have not found one that is really appealing. I have made a suggestion on something you might consider. I have not put it forward formally as a motion. I did not say, "I move."

Ms. Hart: I misunderstood.

Mr. Warner: I am prepared to listen. Quite frankly and candidly, I am pleased with the report as it stands, as we have adopted it today. I am, however, always willing to listen to reasonable argument. If we come back here tomorrow morning and you have something for our consideration, that is fine. I



do not intend to put forward anything, but I am prepared to listen to reasonable argument and to vote for something if it is reasonable. I am content with the report as it stands.

Mr. Chairman: You are not putting that forward as a motion at this time.

Mr. Warner: No, I am not. I put it forward as a suggestion.

Ms. Hart: Perhaps I could respond to that since I misunderstood. I will renew my request for an adjournment as we would like to have some time to consider bringing a motion.

Mr. Chairman: Before we conclude for the day, we can meet tomorrow at 10, at which time a subsequent motion could be placed. That would be in order, unless it is unparliamentary.

As for finalizing the report, I point out now that we have a draft, a statement of facts which we have identified as part I. We have a draft in there as a kind of listing of assets, which I guess will be part II. We now have a concluding sector. We have agreed that legal opinions from Merike and Blenus Wright will be included in the report, and opening statements by Mr. Brandt and Mr. Fontaine. I am assuming you will also want to include the opening statement Mr. Fontaine made last week as an appendage to the report.

We will also include a list of witnesses who have appeared, and in that term I should tell you now we will include as witnesses those who appeared to brief the committee. We just set it up in the word processor that way. We will also include a list of documents that were tabled as evidence before the committee, as opposed to members' whims. Those were documents the committee had asked for by motion and we received.

Is there anything else?

Ms. Madisso: It is the full exhibit list.

Mr. Chairman: It is the full exhibit list. If we meet tomorrow at 10, we may be able to consider certain motions, if you like. The staff is begging for an extra couple of hours in the morning to get all this together in its final form. I would very much like to be able to put the entire report in front of you for a final vote. You know all the contents, but it is a matter of collating this material and making sure you see it.

I caution you tonight to take a look at the draft of the first part that we have completed. You have had that now for two days so we will entertain a motion on that at least tomorrow morning, and any other motions you have. What I am trying to tell you is that we may meet in the morning for an hour or so, entertain a couple of motions, adjourn until one or two in the afternoon and put a final motion.

A couple of members of the committee have told me they have events tomorrow afternoon, so it might be wise to clear your calendar so we can have a brief meeting at one when a final motion is put. If you want to spend the morning in argument, we can do that too. Is that an agreeable way to proceed?

Mr. Treleaven: Mr. Chairman, are we starting at 10?

Mr. Chairman: We start at 10.

Mr. Bossy: If we start at 10, can we not go through to the noon hour?

Mr. Chairman: That is not the problem. The problem is collating and duplicating material. It has nothing to do with you. It has to do with the people who do the real work around here, who have to get all the stuff off the word processors, staple it, vet it, make sure there are not too many spelling mistakes in it, and things such as those.

The committee adjourned at 4:09 p.m.

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Information

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

WEDNESDAY, SEPTEMBER 24, 1986

Morning Sitting





STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Laughren, F. (Nickel Belt NDP)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

Hart, C. E. (York East L) for Mr. Mancini

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, September 24, 1986

The committee met at 10:07 a.m. in room 228.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: We are ready to begin. I will take you through what material you have on your desks this morning, what is expected to arrive shortly and what will come at about one o'clock this afternoon.

This first document we have labelled Part III: Conclusions. That is the end result of the motions as amended and passed in committee yesterday. You have a draft report that contains part I and part II; you have had that for two or three days. There is an additional piece of information to go into that report.

The rest of the material you have, and it will be presented to you in a collated form later today. What you do not have yet is a little introduction that you asked the staff to draft. They have drafted it, and we will have a copy of it this morning. There are some additions to be made to part II, and there are the appendices, the list of witnesses, material that was presented to the committee, things of that nature, which will also probably not be ready until this afternoon. It is not exactly a controversial area; it is just a list of witnesses and documents that were requested and tabled with the committee, that kind of stuff.

In a nutshell, you have the gist of the report, save and except any considerations you might want to put in this morning. I would ask you, for reasons of proofreading, to go through the documents you have. If you think words are misspelled, punctuation ought to be changed, things like that, we can still change them.

The schedule of things, as we have set it out now, is that this morning we will provide an opportunity for discussion on further motions; we will provide an opportunity for anyone to make any corrections on the various drafts you have. By this afternoon we hope we will have off the word processors a copy of the final report in total, and this afternoon you will put the final motion that will adopt the report and send it to the House. That leaves us this morning to make any deletions, add motions, whatever.

Are there any questions on those matters?

Ms. Hart: I do not know about the others, but when the final report is put together before we return in order to put the final motion, I would really appreciate the opportunity to have a look at the final version before we come back here. Is it possible to get it delivered to our offices?

Mr. Chairman: No. Let me put it this way. You will have virtually all the component parts, but you will not have it all put together until about one o'clock this afternoon.

Ms. Hart: I meant at the time it is put together before we come here.

10:10

Mr. Chairman: Yes. What you will have are, for example, a conclusion section, the draft report, parts I and II, the statements made by various people--by Mr. Brandt, Mr. Fontaine twice, the legal opinion from Merike, the legal opinion from Blenus Wright. You will have all the component parts by the end of this morning except for the list of witnesses and the list of documents requested as evidence. The appendices are the part that you will not have.

Ms. Hart: You say by the end of this morning. What I would like is some quiet time in my office to review all the component parts before I have to come back and vote on them.

Mr. Chairman: You can do that, but you will not have them all, unless you want to put them all together and staple them.

Ms. Hart: But I would have everything but the list?

Mr. Chairman: Yes.

Mr. Treleaven: With respect to one comment of Ms. Hart, who said before we "come back and vote" on it, are we going to vote on each individual part and then vote on the package as a whole? It would be a little odd if we voted on all the component parts and then for some reason the final report--

Mr. Chairman: We can do it two ways, if you like, because on the way through we have attempted to put these drafts in front of you, provide you with the opportunity to alter words and add additional items and things like that. For example, on the conclusion to part III, we have had the votes on the way through. We cannot change those; so it would be a formality. This afternoon, if you like, we can have votes on individual parts or we can have one motion put that the report be adopted.

I suggest to you that there is not a great deal of merit in voting on the individual parts of the report. We can do that if that is your preference, but in effect, on the part that perhaps is most contentious, the conclusions, you have already voted on each and every one of those and we cannot change those. The votes on that particular part would be somewhat irrelevant. The rest of it is, by agreement of the committee, not something of great controversy and we have not done that part by motion.

I suggest that it is appropriate to do it in one of two ways, that is, one single motion adopting the report as put. We can have debate, if that is your desire, and the motion will then be put. It is possible to split the question and vote on the component parts. If you want to vote on the introduction to this report, okay, but I do not know why you would want to do that.

Mr. Treleaven: I really question why you would want any votes at all. If you have voted on each of the component parts--

Mr. Chairman: You need a motion to adopt the report.

Mr. Treleaven: To adopt the report?

Mr. Chairman: Yes. It is a small point--



Mr. Treleaven: We make the report. The Legislature is the one that adopts it.

Mr. Chairman: No. This committee adopts the report and votes to forward it to the Legislature. That is the motion that we will have.

Mr. Martel: Did they not teach you anything at that law school?

Mr. Treleaven: Elie, stick your head back in the sewer.

Mr. O'Connor: On a minor point that I did not notice yesterday, paragraph 5, page 30, dealing with Paul Martin and his initial refusal to attend before the committee, the third sentence says, "The refusal of the Speaker to issue a warrant prevented the committee from investigating these allegations." Well, we were not prevented; we eventually did hear from him, so that is not quite correct.

Mr. Chairman: That is a wording change that--

Mr. O'Connor: Maybe we should clean that up.

Mr. Chairman: Could we add the words "at the time" there?

Mr. O'Connor: Something like that.

Mr. Chairman: And "could have prevented"?

Mr. O'Connor: Okay.

Mr. Chairman: Just let me get this clear. In the fifth paragraph, we are inserting the words "could have." The correction would be, "The refusal of the Speaker to issue a warrant could have prevented the committee from investigating these allegations." Okay? Do we have agreement on that? Are there any other wording changes?

Mr. Sterling: I have a little bit of difficulty when I am reading things in terms of singular and plural or whatever, and I am not objecting. In number 2 we say: "Mr. Fontaine failed to disclose all his holdings as required. Golden Tiger continued to apply for mining grants and tax credits under OMEP and United Sawmill Ltd. continued to receive timber-cutting licences from the Ministry of Natural Resources while Mr. Fontaine was Minister of Northern Development and Mines. This was a clear conflict of interest."

Should it be, "These were conflicts of interest"? Am I changing the meaning by doing that?

Mrs. Madisso: Grammatically "this" is not accurate in any case, because there is no direct reference to what came earlier; "these" is not much of an improvement, but--

Mr. Sterling: We are talking about two circumstances there.

Ms. Madisso: Yes. You want a noun of some kind in there. "These facts constituted a clear conflict of interest."

Mr. Chairman: Or these actions.

Mr. Sterling: On the wording, Mr. Warner, what I am talking about is the wording in your last sentence of the first paragraph of number 2: "This was a clear conflict of interest." When you refer to two circumstances--

Mr. Warner: In number 5?

Mr. Sterling: No, 2.

Mr. Chairman: For the benefit of the committee we are talking about the second section of the motion as carried. In the last sentence of the first paragraph, it now reads "This was a clear conflict of interest." We are entertaining a brilliant discussion as to whether this wording is grammatically correct.

Ms. Madisso: What about, "These actions constituted--"?

Mr. Chairman: My problem is compounded by the fact that I am looking at about three different meanings here. Let us have one and let us get this straight. Do not complain afterwards. We are talking about section 2, in the first paragraph, the last sentence now reads "This was--"

Mr. Newman: Mr. Chairman, would you ask the public gathering back here to keep quiet for a while?

Mr. Chairman: Yes. Would you just assist us in the gallery there? The last sentence reads "this was" and the question has been raised--is that grammatically correct?

Mr. Warner: It is not grammatically correct.

Mr. Chairman: Then, Mr. Warner, I am going to give you the opportunity to correct your own grammar.

Mr. Warner: I have a couple of choices. "These were clear conflicts of interest" would be the simplest way to handle it, or you could--

Mr. Chairman: Before you get the "or" on the table, is that an agreeable correction to make, that "these were clear conflicts of interest"? Are we agreed?

Mr. Warner: I apologize for that. I should have known better.

Mr. Treleaven: In paragraph 4, I would think the first line should be "Ms. Mary Eberts and Mr. Blenus Wright, in their capacities as advisers to the minister..." Plural. Then the second sentence and the third do not quite exactly follow. "In her letter of July 9, 1985, Ms. Mary Eberts explicitly advised Mr. Fontaine of his obligations in order to conform to the guidelines. He did not do so." That does not quite follow. He did not do what? He did not do so. It is a little rough.

Mr. Chairman: I agree on the first point, but on the second one I do not think that is worth bothering with. In section 4, it would now read, "Ms. Mary Eberts and Mr. Blenus Wright, in their capacities as advisers to the minister..." All right? Are there any other changes you might think would be appropriate?

Okay. Are you clear as to why a wording change has been proposed in number 5? The last sentence will now read, "The refusal of the Speaker to issue a warrant could have prevented the committee from investigating these allegations." So those are the wording changes.

We can now move on. I will save you the aggravation of trying to deal with motions, read introductions and whatever. At the end of this morning's session, we will provide you with a copy of the introduction. You will have the noon hour to read it at your leisure and can state any objections that you might have.

I have one notice of motion from Mr. Morin.

10:20

Mr. Morin: As a preamble, I would like to say this: When I hear that children of my colleague are crying because their dad was accused of lying, because their dad was found guilty of conflict of interest, because I know there was a press release accusing my colleague of lying, I cannot do anything else other than propose the following motion:

This committee has recognized that Mr. Fontaine violated the conflict-of-interest guidelines, but at the same time, this committee also recognizes Mr. Fontaine's personal sincerity, devotion and commitment to the people of Ontario and particularly to those people of Cochrane North. Mr. Fontaine has stated, "My motives were honourable, but I see now that my actions could have been interpreted differently by some."

Mr. Chairman: There is a slight alteration in the wording of that. The motion that I had presented to me reads "northern Ontario" and the motion as read said "Cochrane North."

Mr. Morin: It should read "Cochrane North." That is right. I will read it again, just for your own clarification: "...and commitment to the people of Ontario and particularly to those people of Cochrane North."

Mr. Chairman: You have a motion. I guess the first order of business would be to state that the motion is in order. Let me clarify that. There is one small error in the copy I have, or it could be considered to be an error. The introduction to the motion that I have says, "Mr. Morin moves the following to be added to the report of the committee following point 6."

Might I suggest that during the course of the debate on the motion you might personally give some consideration as to the placing of this particular motion. It does not quite fit in with point 6. You may mean that we add a new point 7 or you may mean that you want it at the end of the report, so that it stands separate from the conclusions and might stand out a little more. You might give some thought to where you want to place it.

The motion is in order and we are ready to proceed with the debate on the motion. Any discussion?

Mr. Warner: This is a very awkward thing for a committee to do. I will take a couple of minutes and go over what I see as the problem.

The committee was given a very specific task and we completed the task. Very specifically, did Mr. Fontaine breach conflict-of-interest guidelines? We



reached the conclusion that he did and we have written a report. When you read the report now, in its entirety, it does not attempt a character assassination, it does not attempt personally to attack Mr. Fontaine in any way. It lays out facts and it reaches conclusions. I believe it does it in an objective, fair and reasonable way.

What is troubling many of us, and most particularly the Liberal members, is that Mr. Fontaine's personality or his person has been attacked. It has been attacked basically in two ways: one, very naturally, because of the conclusion reached by our committee that he broke the guidelines. That is serious. We take it to be serious, I know Mr. Fontaine takes it to be serious and, presumably, the people of the province take it as a serious matter. So he is hurt by that. It is unfortunate, but it happens to be the natural result of everything that took place. In other words, if he had not breached the guidelines, we would not have reached that conclusion. So there is some damage done to his reputation simply through the natural course of events. There is nothing we can do about that.

He has been hurt in a second way, and that to me is the more difficult one. The second way was the accusation, as it appeared in the newspaper, of his having lied. That accusation was not made here in the committee. That accusation was made outside the committee. We all live with what happens in the media. We all live with stories in the paper and on television. What committees or the House cannot do is to start responding to each and every story that pops up. There would be no end to it.

When I look at the report and try to read it in a dispassionate way, I cannot see, aside from the major conclusion that he broke the guidelines, that there is anything else in there that is particularly damaging to his character. What is truly damaging to him--and I would be hurt too--is seeing on the front page, especially of the Toronto Sun, I guess, because they use bigger letters than anybody else, the words, "He Lied," or whatever the banner was. It hurts. With respect, there is not a whole lot I can do about that in the committee.

The normal course of events around this place over time has been either to live with those press accounts, accurate or otherwise, or to sue. Members from within the same party have been known to sue each other on occasion.

Mr. Martel: Not Eddie.

Mr. Warner: No. I was thinking of Vern Singer and--

Mr. Martel: Eddie.

Mr. Warner: --the guy from Sarnia.

Mr. Martel: No. It was Eddie who was being sued.

Mr. Warner: And Eddie Sargent.

Mr. Chairman: Stop harassing.

Mr. Warner: Therefore, I am of two minds. I do not like it when members are treated in a less than an honourable way, because I myself may be treated in that way some day. It is not fair. It is not right. I would like to help in some way.

On the other hand, I am a little reluctant to put in something which, to be very objective about it, has very little to do with our actual report. Our actual report deals with finding of fact, and we have studiously stayed away from characterizations of trying to determine personalities and trying to determine whether someone told the truth, the whole truth and nothing but the truth. We have stayed away from that, and I believe it is to our credit. Not all but most of this conclusion was reached unanimously. It was reached unanimously because we dealt with fact and nothing else.

Having said that, I am still prepared to accept something in the report as our token gesture to René as a way of understanding that his feelings have been hurt and his character has been tarnished because of everything that happened. But it must be clearly understood that it has very little to do with the body of our report, and it cannot in any way be misconstrued as somehow exonerating him from what happened.

On reflection, Mr. Chairman, I suppose the motion you have proposed would not be necessary had the press release not been issued. Am I right? There is nothing else in this report that would prompt such a motion. But the press release that went out from the Conservative office, to me, is the main reason for having this motion. I want to hear that back, because if it is not, then there is no reason to put anything in the report.

10:30

Mr. Bossy: For clarification on the basis of what Mr. Warner just stated concerning the press release, the record in Hansard will show that there was a request by the chairman for the withdrawal of the words "He lied." I believe it is on record.

Mr. Warner: And they were withdrawn.

Mr. Chairman: They were withdrawn.

Mr. Bossy: They were withdrawn. The statement was made then, and the press release that followed was very close behind that statement. Then there was a period of 10 days. The accusation that was made outside of this, 10 days before the press release was brought into this committee--

Mr. Martel: Did not raise it either.

Mr. Chairman: Let us correct the record there. The press release was never brought to the committee.

Mr. Bossy: He quoted excerpts from the press release--

Mr. Chairman: No. Let me intervene for a minute; hold on for a second. Just so we are straight on this, the press release is not part of these proceedings; it never was brought in here.

Ten days after this event happened outside this committee, a member came to the committee and asked to make a statement, as has happened on at least one other occasion during the course of these proceedings. We always accede to the wish of the member to make a statement. Mr. Sterling came to the committee. He came to me prior to the committee and said he wanted to make a statement to clarify an incident that had happened outside the committee. I acceded to that request. He made his apology. That is a matter of record here,

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and that is all that is a matter of record. No press release is included in the documents. No part of that is here, save and except the statement made by Mr. Sterling apologizing. That is all.

Mr. Bossy: Was the statement made by Mr. Sterling based on evidence, or whatever, that was in this committee?

Mr. Chairman: No.

Mr. Bossy: The statement that was made in this committee was concerning evidence or whatever might have transpired outside this committee. Thus, when the statement was made in this committee, it should have been ruled that it was not part of the evidence or that it was not the right forum in which to make it. I tried to intervene, and I believe I was called out of order at that time.

Mr. Chairman: Except that every member has the right to appear at the committee and make a statement to correct something that might have left the wrong impression.

Mr. Treleaven: As did Mr. Wiseman.

Mr. Chairman: For example, Mr. Wiseman came to me and said, "Somebody said something in this committee, and I want to make a statement." I cannot deny a member the right to appear before the committee to make a statement. I can rule him out of order if it appears the statement is unwieldy, but as in the Legislature, the Speaker has to listen to members when they want to rise to make statements. It is the Speaker's obligation to provide them with that forum.

If it is apparent to the Speaker after a minute or so that what the member is saying is totally irrelevant, out of order or whatever, the Speaker can say: "You are gone. That is out of order." But he has to hear what the members say or he has to have some knowledge of what they are going to say and provide them with that opportunity. Members do have the right to say things.

Mr. Treleaven: Mr. Mancini also made a statement in conjunction with--

Mr. Chairman: Yes, one member responded to the other. That is in order.

Mr. Bossy: I feel very uncomfortable that the statement made here was not part of the proceeding itself, and that is the thing: It was allowed into the committee and it became such an issue--

Mr. Chairman: No. Listen, I cannot stop it. If any one of you comes to me before a committee meeting and says, "Before we get started today, there is something I have to say," I at least have to let you get started on that. If it becomes apparent to me that what you have to say is totally irrelevant, I do not have to listen to it all, but I have to give you the opportunity to make whatever statements you see fit. That is a pretty old tradition.

It gets messy, which quite frankly is what you have just said. If we all came in here every day and read a press report from somewhere that was in some manner critical of an individual member or the work of the committee and we all got hot and bothered, we would never get around to doing our business.

Mr. Martel came in yesterday, and he was all hot and bothered that somebody had said something in a newspaper in northern Ontario that was not too flattering to our deliberations. I can let Mr. Martel get a little bit hot and bothered here, but I am not going to give him a whole afternoon to belabour the point. If he can get it on the record in 20 seconds, I have that much patience for him; but if he wants to go on all afternoon about how someone categorized the work of this committee over the past three months, I can get a little lathered up about that too.

I have had no summer vacation this year. My wife is on my back every day. My family hates me. Bill collectors are at my door. My constituency assistants are giving me the gears every day; they happen to think there are things in this world other than the work of this committee. I have all those pressures on me, just as every member of the committee does, but they are not part of our proceedings here. We cannot come in here and unload all of our hurt feelings. We can give you 30 seconds of our time at the beginning of an afternoon session and that is about it. It seems to me that is fair.

Mr. Sterling: This seems to be centring somewhat on a press release, which I reiterate was not released with my knowledge and for which I have apologized. I thought Mr. Fontaine had accepted my apology for that action. The reason I brought it in front of the committee at that time was to try to be as fair as possible to Mr. Fontaine, to take the public forum I had at the moment to make the fact that this event had taken place as widely known as possible. Therefore, I used this forum to do that, and I thought that was only fair to him to use this forum to make that statement.

I did not cover myself in glory in any way, shape or form by waiting for that time to pass before bringing that to the attention of the committee or before making the statement, but nothing happened after the first day that press release was issued. There was nothing brought to the fore until about the eighth or the ninth day, when the Liberal members started to talk about the intent of Mr. Fontaine at certain meetings and that type of thing.

As for the other part of the press release, which to my knowledge was not mentioned in the press when it was issued, there were some statements attributing motive to him, and I wanted that retracted as well.

I was ashamed of what I did in not bringing forward the matter or rejecting the press release at an earlier time, and I said I would take the blame for that. More people have talked to me about my apology than they did about the initial allegation, whatever that means in terms of the quality of coverage. I did not get quoted on the front page of the Toronto Sun on the second occasion, but I do not have much control over that, as you know.

As I have stated before, I do not like these types of hearings, and I do not like the job we are charged with. There but for the grace of God goes each and every one of us. But I do not know how else or what else I could have done at that moment. There are lots of things that perhaps a fair and objective judge would have included in this report, if he had been considering this in a judicial inquiry, but in each and every one of the members of this committee there is a certain concern that this is a colleague. This is a person who is in the same position as each and every one of us, and we should therefore take that into consideration when we were writing the report. I thought we did that.



Ms. Hart: Since we are speaking of judges, if this were a court, the judge would have had the opportunity to talk about contempt proceedings, because these matters were related to this committee. The committee and its deliberations provided the occasion for Mr. Sterling's behaviour, and it is his responsibility. We talk about parliamentary procedure and parliamentary tradition, and that requires that each and every one of us take responsibility for our staff.

When we were talking about the statement, you clearly made the judgement that it was relevant in allowing it to be in order without cutting off Mr. Sterling in the middle after you had heard enough to make that judgement. Because it was found to be relevant to the committee's deliberations, I do not see how we can close our eyes to what was clearly very damaging to one of our colleagues. I am not just talking about hurt feelings; we are talking about our central position in public life, our good reputation.

Mr. Chairman: Let me stop you there. Are you saying I should not have let Mr. Sterling come in here and apologize?

Ms. Hart: No. I am saying--

Mr. Chairman: That is all that is on the record here.

Ms. Hart: I am saying that since you allowed it to happen, you clearly had to make the judgement that it was relevant because, as you said yourself, if it were irrelevant, you would have ruled it out of order.

Mr. Chairman: Wow!

Ms. Hart: Further, the facts in that press release were commented on in that statement, in that Mr. Sterling, in delivering his apology, referred to the facts and to his view of the truth of the facts. In that respect, those facts are also before this committee.

It seems to me it is flying in the face of fairness not to say something in the report, because we are talking about the activities of the committee. The activities and comments of every one of the members of this committee reflects on the committee as a whole.

When that is the case, we cannot just close our eyes to something that is clearly very damaging. That is why we should consider putting in the report a comment such as we have heard. Otherwise, the comments we have heard from time to time from virtually every member of the committee have been hot air, to say the least, when they have made positive comments about Mr. Fontaine.

Mr. Chairman: I do not want to intervene in the debate, but I do have to put on the record once again that the reason I had to hear Mr. Sterling was that in the morning Mr. Mancini raised the matter of what was in the press release.

It is not an easy job to sit up here and try to judge what is fair and reasonable. This is not something we do every day either. I believe we all tried to be reasonable. I have seen members on all sides put forward something that was to their political advantage and frankly back off because other people in the committee made the argument that it was not a fair and reasonable way to proceed.

I have no illusions that we do not belong to political parties; we all do. I cannot expect members to come in here and say, "I am not a Conservative member any more seeking every political advantage I can get." All I can ask them to do is to be fair in that process.

I could be wrong. I believe we slipped a few times on the way through, but we went at this thing for three months, and if we sinned once or twice on the way through, I cannot throw any rocks at anybody. I believe we tried to do our best. In the final analysis, I think we did not a bad job at sorting out our personal opinions on the way through, identifying the facts and calling it as we saw it.

I have allowed the motion to be put this morning even though I could think of some good arguments as to why it is not properly part of the proceedings, but I think an honest attempt was made yesterday afternoon to say something. It is not my job to thwart members of a committee who want to put forward motions and say something in a report. I have allowed it to come back in this morning because it seemed to me there was a general feeling among members of the committee that they were not averse to that concept. They were prepared to try to find some wording that could accommodate people. That is the fair and reasonable way to proceed, so we will do that.

Mr. O'Connor: I thought we were here to debate a motion proposed by the Liberals. I am prepared to debate that motion. In fact, I am prepared to agree with a portion of that motion. My distress is that we are getting dramatically off the track in getting back to the discussion of whether Mr. Fontaine misled this committee. We have reminded each other on numerous occasions over the past three months that our job is to find facts, to stay out of characterization of motive and to stay away from the issue of characterizing his testimony as being truthful or not.

What I am hearing from the Liberals is a given or a suggestion that it is an absolute assumption that he told the truth fully and openly throughout the whole process and that therefore we should state that as a fact. Let me remind them that some of us here have some difficulty with that position. I do not want to get into the position of arguing the other side of that issue, but if you guys over there are going to force it, we should then go through all the testimony that he gave, piece by piece, and point out that his testimony is diametrically opposed to that of Ms. Eberts in respect of at least one significant fact; that is, when he was told to sell his shares.

It is diametrically opposed to that of Martin on several facts. It is inconsistent with his statement in the House of January 30, where he says he has had nothing to do with his businesses and so forth. It can be equally argued that the facts you are saying are a given and are unequivocal are not a given.

If you want to entertain that debate for the rest of today, tomorrow and the next day, fine; we will analyse three months' worth of evidence and come to a conclusion. You may not be very happy with the results. I thought we were beyond that, that we were going to put that issue aside, that we were not going to deal with it and that we were here this morning to give René something, if I can put it that way, to allow a statement to be made that softens the blow, so to speak. Quite frankly, we are prepared to go along with that to a certain extent.

My difficulty with the statement and much of what is currently proposed is that it appears to be a highly political, self-serving sort of document, with the wording that the committee finds that he is personally sincere in his "devotion and commitment to the people of Ontario" and so forth. That is just political blather. Will all the committee members agree to say that about me? I have the greatest sincerity, devotion and commitment to the people of Oakville. Are you prepared to say that, so I can put it in my next newsletter and in my brochure for the next campaign?

We are not here to assist or otherwise in his election next time around. We are here to find a set of facts on a set of circumstances dealing with conflict of interest, and that is all. We will depart quite dramatically from our mandate--read the simple mandate from the House--if we get into some statement along those lines.

What it would be fair to do, because we have done it with regard to other witnesses, would be to do something along the lines of the last sentence that is proposed in your motion, simply to quote from what Mr. Fontaine has said were his motives and what was going on in his head. I suggest that this, although it is stretching it a bit, can be found to be in order. We might be able to go along with that if it were inserted in paragraph 3 or paragraph 4, where we are dealing with his actions in regard to Mary Eberts and Blenus Wright.

To include the first part of that is beyond our mandate and would do exactly what we have all reminded each other we should not do over these past three and a half months.

Mr. Chairman: I point out that the committee has agreed that it will include in the report Mr. Fontaine's statements, both of them, when he first appeared and when--

Mr. Morin: The committee did not agree. It was proposed. We did not vote on that.

Mr. Chairman: We have agreed to include his statement in the report.

Mr. Morin: Okay. What I propose is that we go through the motion line by line.

Mr. Chairman: Let me get around to hearing everybody before we get to that stage. Mr. Martel.

Mr. Martel: I guess it may be the newness of some members, but when you have something going for you, you do not push it to the wall. You learn that around here, and you have not. I have listened to the arguments this morning and, rather than help Mr. Fontaine, some of the comments start to make the hair on the back of my go up, quite frankly. If the Liberals--and I say this to the new members--had really been concerned about the statement made by my friend, or the press release about his name, they would have raised it the next day. Those are the rules of this House.

10:50

Mr. Morin: We did and it was ruled out of order, sir. I was ruled out. Do not forget that.



Mr. Martel: I would have pursued it. You should have raised it at that time and pursued it. The chairman might have backed off and listened to your arguments. He would have had to.

As my colleague said, it was done outside this committee and outside the Legislature. You have heard Mr. Speaker Edighoffer say more than once: "I cannot deal with that. You might want to rise to correct the record, but I cannot make a ruling." You just persist despite the rules of this Legislature.

Mr. Sterling backed down and said: "Look, I made a mistake. I want to correct the record." You people keep bringing it up that he did not make that statement. I heard Mr. Bossy say that this morning over and over again. He withdrew, and as far as the rules of this House are concerned, that is gone. Every time you bring that up, you raise the hackles of other people because some of us are upset as hell about René not telling us about the Eberts letter or about the four meetings he had with the Ministry of Natural Resources.

You keep pushing those of us who are trying to keep it on an even keel to exasperation. I understand what you are attempting to do, but you cannot put it in a different light. We did not commit the conflict of interest. There was not one copy of the Sun sold in Cochrane North. There was not a copy of the Sun that went into Cochrane North. I never really worry about what the Sun says about me--there are all kinds of things--because they do not sell a copy in Sudbury East either. So the gory headlines you talked about--

Mr. Treleaven: Did you buy them all up, Elie?

Mr. Martel: I would not buy one. I have never bought one in my life; I am not going to start now. You keep pushing and you are going to push it to a point where people are going to say: "Wait a minute. There is another side." I do not want to get into the argument--I will try to stay away from it--of whether there were lies told. I do not want to get into that argument. I do not want it to come to the fore.

You keep pushing and taking a line of defence. We could have had a sentence in yesterday morning when I think everybody was on side. We did not know that we went to a sentence that was a lot longer. Now when you come in with your arguments, you push us to a point where those of us who do not have a particular axe to grind really do not like to push. With the shove that is coming, that push and shove will open up more wounds and cause more controversy than we have had to date in this very trying situation.

I said to my friend Morin last night, "I understand what the members want to do pertaining to the member in his own riding." As I said yesterday in committee, there was one sentence I tried to get into section 2 very late in the afternoon. As I understood it from the Liberals, the real controversy and concern for them was the forest management agreement. As I said, one simple sentence would have got that in. You keep broadening it on us. There is this statement about Ontario, northern Ontario, for his own riding, and to salve some of the wounds in his own riding.

I think you would have some of us prepared to go that far, but as my friend O'Connor says, do not put in a statement that can become the basis of a whole political issue. If I were in his position, in the middle of the next campaign I would take that statement, run it as a leaflet all by itself and run around saying: "Here, the Liberals, the New Democrats and the Conservatives all agree that Fontaine is the greatest thing since sliced bread. Here it is right out of a document."

Those are your arguments. The length of your statement is not helping anything. They are getting people's hackles up. I do not think that was your intention, nor is it ours to exclude something. There is agreement. Nobody is arguing about Fontaine's personal sincerity or his devotion and commitment to his people, and that could be re-emphasized. It was the commitment to his people that got him in trouble with the forest management agreement. When he saw an FMA going down the tube he got involved; conflict or no conflict, he got involved. Who is prepared to say that?

Then you take it and bring in all the arguments. As my friend O'Connor says, there are some doubts. Then you want to attribute it not to the area that he is trying to serve that gets him in conflict, his own riding, his own area, and not only northern Ontario but also Ontario and the universe. I ask you to look at what you are saying, cut it off at a point that is appropriate and then try and let it fly. If you go whole hog, I have to say you will end up with nothing.

Mr. Treleaven: Mr. O'Connor and Mr. Martel said what I wanted to say and maybe better than I would have said it.

Mr. Bossy: I have a short comment. Forgive me, but it sort of questioned my integrity when Mr. Warner made his final statement into a question about our motive for putting this. I am sure, Mr. Warner, that the words you used will show, "Why?" That is the thing that troubles me when you ask why we want this motion in. At the end of your comment, you asked the question, "Why?"

Mr. Warner: I asked why--

Mr. Chairman: If I can intervene, I think I can help you. It seems to me there is not general awareness, although it was agreed to by the committee, that we are including in this final report Mr. Fontaine's entire statement of September 19. Maybe people who were moving motions this morning were not aware of that. There has been some substitution and perhaps that accounts for it. That is a bit unusual. We are giving him full opportunity to make a separate statement, which perhaps is normal process, but we are also going to include in the report his entire statement to the committee last week. It seems to me we have gone a long way towards providing him with the opportunity, by reprinting it, to state his side of the argument. Maybe people moving the motions were not aware of that. You seem a little taken aback by it but you should know that.

Mr. Bossy: This is part of the evidence that is attached.

Mr. Chairman: We are including it in the report.

Mr. Bossy: Yes, but it is not a conclusion of the committee. It is not part of the conclusions of the committee.

Mr. Chairman: No, it is not.

Mr. Bossy: That is why we find a problem. It is not part of the conclusions.

Mr. Chairman: Let me clarify one other point. Maybe I am being oversensitive. I was aware of the story in the Sun and that somebody might come in and at the beginning of the process raise a point of privilege on what

was printed in the newspaper. I went over in my mind what the precedents would be. There would be nothing I could do at that point. If you were offended in some way or felt that I could mount a not bad argument that the privileges of the committee had been abrogated by a newspaper story, and that something was stated as fact that was not fact, I would have given you three minutes of the world's finest Mike Breague on why this thing should be done, at the end of which the chair probably would have said, "That is nonsense."

None the less, I would have had my three minutes. That is all I ever get; that is all I ever ask for. I get a chance to say my piece. Whoever is chairing the committee, or the Speaker, can say, "You are nuts," but he gets to say I am nuts after I have said why I am aggravated about something that particular morning. You could have come in and done the same, and I could not have prevented it.

11:00

What you did, during the course of the morning's proceedings, was to try to introduce a newspaper story as evidence before the committee. That is not proper. It does not take a whole lot of skill, as Mr. O'Connor indicated with his modest amount of parliamentary skill. You can work it in around the edges. However, you cannot walk in, plunk these things down and expect everybody else to take them as evidence.

I cannot stop you in mid-sentence and say, "You cannot say it just because it was in the Sun." I have to wait until you finish the sentence, but you get a chance to say it. You had the same opportunity that Mr. Sterling and other members had during the course of the proceedings. You chose not to do it. I cannot figure out why you would or would not do it. It was not done; let me say that. If you wanted to raise it as a point of privilege, you could have done so the next day. You could have raised it at the beginning of the session, and the committee would have had to deal with it. That did not happen.

Is there anything we should know before we proceed with the motion?

Mr. Morin: Should I try something else? Am I allowed to do that?  
Some wise words from a pro, Elie, whom I respect.

Mr. Martel: Do not flatter me.

Mr. Morin: I do not flatter you. I give you what you deserve.

Mr. Chairman: It is the first time he has been called a pro in many years.

Mr. Morin: I give you what you deserve. I said that all of us are respectable. I said before that I respect all of you and I will not change my mind. I respect the House. I will not change my mind. We have a very serious responsibility, and that is the way I take it.

Here is what we propose: "This committee has recognized that Mr. Fontaine violated the conflict-of-interest guidelines, but at the same time this committee recognizes that Mr. Fontaine's sincerity, devotion and commitment to the people of Cochrane North caused him to be involved in the negotiations surrounding the FMA." Those are your words, Elie.

Mr. Warner: "Caused him?"



Mr. Morin: Let me repeat. 'Mr. Fontaine's sincerity, devotion and commitment to the people of Cochrane North caused him to be involved in the negotiations surrounding the FMA.'

Mr. Martel: My motives were honourable.

Mr. Treleaven: We are again getting into motives and what caused him to do this and that. We are again getting into muddy waters. There are several explanations of what might have caused him to get into various things. We are deliberately trying to keep away from that type of thing. I will have to speak again to this motion, which is amended in a friendly fashion by Gilles.

Mr. Chairman: We have an amendment to the motion. I take it that you are not withdrawing the previous motion but amending it to alter the wording.

Mr. Morin: That is correct.

Mr. Chairman: The wording is substantially different. I would make the judgement call that the substance is not different. It deals with the same subject matter. I think the amendment is in order. Is there any debate on the amendment?

Mr. O'Connor: Inasmuch as it clearly and unequivocally violates our stated intention not to comment on motives, even more so than the original version of the motion, I am wondering whether we can go back through the conclusions and similarly attribute motives to some of the other conclusions we have found, whether that might be appropriate or whether the argument is that there is just this one exception we should make to our rule not to attribute motives to anybody. Would that be what Liberals are arguing, or should we open up all the other statements?

Mr. Morin: Just refer to my colleagues. I am not taking a political stand here.

Mr. Chairman: Okay. Let me point out that we are on thin ice here. I have allowed the motion to stand this morning even though another day, in another way, I could give you a pretty good argument that we are attributing or imputing motives and that is out order and we should not be doing that. I would allow it to stand because I sense the committee yesterday gave me a pretty clear indication that you were prepared to take a look at this. I did not hear any big commitments to vote for or against anything, but you were not precluding that, on all sides.

The question before you this morning is a motion that I would prefer-- and you seem to be having difficulty--you to deal with as it was put to you. I have listened to the previous one and that debate, and it seems to me you spoke to everything under the sun except the motion you had on the table. This time around--and I think we should let it go one more round--it would assist the chair if you would address yourself to the actual motion that has been presented this morning, to whether you are for it or against it and to whether it is appropriate or not appropriate.

To answer Mr. O'Connor's rhetorical question, no, it would not be in order to open up every other section of the report as we have voted on it and to go back over it again. We have concluded our voting on those matters. On several of them, we had recorded votes. It would not be in order to reopen those, to reconsider them.

Mr. Treleaven: But it would be in order to add new paragraphs, as we are doing now.

Mr. Chairman: I would say you could add more motions of this kind.

Mr. Treleaven: Right.

Mr. Chairman: We would go from something that said six things to something that said 66 things. I am trying to point out to you that we are on thin ice procedurally here. We are not abandoning--I am trying to respond to a committee that said, "We are prepared to take a look at whatever words you could put together," but it is getting into deep water here and the ice is getting thinner and thinner, and my mother told me not to do this.

Mr. Warner: I will be brief. First, I have some trouble with the motion that is proposed. To me, it is less acceptable than the previous one, because there were two major issues, and you have highlighted one of them. One way to construe what has been written in the motion is that it is allowing some kind of excuse for what happened. In other words, the guidelines were breached but they were breached because of his devotion to the people in the area. We do not have any evidence to substantiate that.

I will make it simple. I have weighed this thing in my mind overnight as well as this morning with what was put in front of me. I am prepared to accept a sentence where there was a period after the words "Cochrane North." In other words, to say, "...recognizes Mr. Fontaine's personal sincerity, devotion and commitment to the people of Cochrane North. Mr. Fontaine has stated..." quote, and that quote comes directly out of the statement he made before the committee.

Mr. Chairman: That is not before us at the moment.

Mr. Warner: I am indicating that is what I am prepared to accept and nothing else.

Mr. Morin: David, if I understood you well, would you prefer to make a motion to that effect or just to amend my motion?

Mr. Warner: No. There is a motion on the floor right now.

Mr. Morin: Mine.

Mr. Warner: Yes. I would suggest that the proper way to proceed might be either to go ahead and vote on that motion or for you to withdraw it. If you wish to put forward another motion, that is fine. It is not my intention to move any motions. I tried to make it very clear yesterday at the end of the session that I am content with the report as it stands. I do not see any great, burning desire to add new sections.

I am only doing this is because of that press release, which I think was totally inappropriate. Because it harms one of our colleagues in a way that was unfair, I am prepared to address something in the report. Other than that, I feel no great compulsion to add anything to a report that I think says it all.

11:10

Mr. Villeneuve: I have problems with the motion before us as well, particularly the area that was just attached, "caused him to be involved in negotiations surrounding the FMA." We heard much evidence. We quoted things Mr. Fontaine said in the Legislature. Without expanding further on the evidence, why do we keep coming back to what caused him to be involved in negotiations for the FMA?

I would like to leave it the way it is. We have stayed away from motives. I know there was a press release, and it is probably what my colleagues across the way are trying to work with, against or whatever. I had difficulty with it. It has been withdrawn, and there has been an apology personally and on the record by Mr. Sterling. I think Mr. Fontaine accepts it, and I do not know why you want to keep coming back and trying to state why he got involved in the FMA, in spite of all the statements we have heard from Mr. Fontaine and others.

Mr. O'Connor: My question of the Liberals may be rhetorical or otherwise. We have a mandate to determine whether certain conflict-of-interest guidelines were breached. What, in heaven's name, have Mr. Fontaine's personal sincerity, devotion and commitment to the people of Cochrane North got to do with the issue? We are all personally devoted and sincere to our own ridings.

Why are we gratuitously throwing that kind of statement into a document that in all other respects--and it now appears to be 30 or 31 pages long--deals with the issue it is supposed to deal with: the facts for and against a conflict of interest? This seems to be a gratuitous throwaway that has nothing to do with the mandate we have received or the issue before us in some kind of effort to give René Fontaine a sop. I do not understand it.

I was facetious previously; perhaps I should be serious about this. If we are going to say it about René, why do we not pass 11 motions in which we agree, as an all-party committee of the House, that each and every one of us is "sincere, devoted and committed to the people of" and then fill in the riding name? What has it got to do with the mandate before us?

If we are getting into motives, which I say we should not get into, does not the same debate arise as did with regard to whether he misled the committee? You say his motives were honourable and he was motivated in what he did by a commitment to his people. Again, there is another side to it. I do not want to get into arguing it, but how about the Golden Tiger shares? Could it not be interpreted that the reason he held on to the Golden Tiger shares was to make some money? That had nothing to do with his devotion to the people of Cochrane North. Could it not be interpreted that the reason he met four times with a senior civil servant was to maximize the income to his family for the next 20 years?

I am being harsh and perhaps cruel in this determination, but the only evidence we have that he was motivated by sincerity and a commitment to the people of Cochrane North is what he told us. He said so.

Mr. Morin: He is an honourable member.

Mr. O'Connor: He is an honourable member, yes.

Mr. Morin: That is right. Do not forget that. Never forget that.

Mr. O'Connor: We are sitting here as judge and jury, investigators and prosecutors. It is a mess of a procedure, but that is another matter. We



have decided, because of the difficulty in determining motivation, that we would not get into it. There could be two or three interpretations of his motives for visiting Bill Therriault on a Saturday morning. One motive could have been to serve the people of Cochrane North. One could have been to maximize the income for his family for the next couple of years. We have agreed to get away from that.

By bringing this statement into it, we are opening Pandora's box. If you want to debate all that, let us go through the evidence, debate motive and open things up. We will spend three days determining who was properly motivated and who was not. Just leave it out. Take the last sentence and everybody will be satisfied.

Mr. Morin: Mr. Chairman, perhaps you will allow me to ask a question of David. Then I will need your guidance on how I should proceed.

If I understood you well, you would accept it if we were to say: "The committee recognizes Mr. Fontaine's personal sincerity, devotion and commitment to the people of Cochrane North. Mr. Fontaine has stated, 'My motives were honourable, but I see now that my actions could have been interpreted differently by some.'" Did I hear you well? Would you be agreeable to that?

Mr. Warner: We will ask for a 10-minute recess if that motion is put forward.

Mr. Morin: How do I do it? Do I withdraw my motion?

Mr. Chairman: Let me assist you. As I have indicated, we are on shaky ground. I see it as my job to try to do whatever this committee wants to do. When you said yesterday afternoon that you were prepared to consider whether it was possible to put together some words to express some feelings, little flags went out all over my head saying: "Whoa. This is rather unusual. This is going to be very difficult to do."

I understand your intention and it is worth while trying. This morning, on two variations of the same motion, we have tried to do it. It is clear to me that we have not succeeded in doing it. It is pretty clear to me from where I sit that what you could succeed in doing now is to put the motion, and some members of the committee would say, "Yes," and some would say, "No."

If the intent is to include in the report a motion whereby the committee identifies with the member, sympathizes with the agony this has put him through and with some of the problems he has personally encountered, and the motion is not going to carry unanimously, we had better recess for a while and think about that.

If it were me, and the best a committee could give me was a six to four split on whether I was a nice guy, I do not think I would want it. I would be happy that you allowed me to include my statement as part of the report, to say what I wanted to say about the matter as fully and completely as I chose.

When it comes right down to it, I do not think I would want something that could win--I believe it is possible to put together a motion with a little ingenuity that would carry in the committee. For me personally, I would not want that. If it is not something that is just uncontestable, not even debatable, then all right, from my point of view, I would consider that to be a little gratuitous.

I understand there are good intentions at work in this room, and we have struggled to find words to express that. We have not yet succeeded. With a little more work, we may succeed in putting together a sequence of words that would carry, but it has been a struggle.

I suggest you ought to withdraw for a few moments and think about whether you actually want to pursue it.

I remind you that, at least in my view, the inclusion of his statement of last week should not be taken lightly. This committee could have said, "That is his opinion, but it is not worth putting in the report." Without any reluctance at all, every member of the committee agreed to the inclusion of his final statement; in other words, we would include it in the main part of our report, not in Hansard, not on the record as a lot of the rest of this has occurred. Printed up in the report would be his final statement to the committee, his summation of what happened to him during all these events. I believe that to be significant, and it was done without question. The committee in a sense has expressed its commiseration, its feeling of sadness that a member of the assembly has been challenged in this way and has got himself in a bit of hot water.

I put it this way: You can put your motion. The committee gave me direction yesterday that it wanted to see what the motion might look like. You can adjourn for a few minutes and see if you can come up with wording that might carry. I caution you. If I were René Fontaine and the best I could get was a six to four split saying I was a nice guy, I would not be very happy with it. I would rather have nothing than that.

Why do we not recess for 10 minutes and consider whether you want to do it? We will come back, and at that time you can withdraw this motion or put a new one. That is about as much latitude as I can give you.

The committee recessed at 11:19 a.m.

11:35

Mr. Chairman: We are ready.

Mr. Morin: I would like to withdraw my motion and place another one instead. Would you like me to read the new one?

Mr. Chairman: Yes.

Mr. Morin: Before I move that motion I would like it to be on its own, printed by itself.

Mr. Chairman: Not part of the conclusions?

Mr. Morin: Not part of the conclusions; by itself.

Mr. Chairman: All right.

Mr. Morin: It would read as follows: "This difficult process has drawn Mr. Fontaine to state"--and I quote from Mr. Fontaine's statement--"My sole purpose from the day I was elected an MPP was to serve the people of my riding and in my capacity as Minister of Northern Development and Mines to serve the people of this province....My motives were honourable, but I see now that my actions could have been interpreted differently by some."

Mr. Chairman: I take it the words are "This difficult process has drawn Mr. Fontaine to state," and then we are into a direct quote from his statement.

Mr. Morin: That is correct.

Mr. Chairman: Could you identify that for us and that will help us out?

Mr. Morin: It comes from the statement of Mr. Fontaine to the standing committee on the Legislative Assembly. I do not have the date, but it was last Friday, I believe.

Mr. Chairman: September 19.

Mr. Morin: September 19.

Mr. Chairman: It begins with the words--

Mr. Morin: "My sole purpose."

Mr. Chairman: It ends with the words--

Mr. Morin: It ends with the word "province." Then there is another quote, which is on page 4 of his text; it says: "My motives were honourable," etc.; it ends "by some."

Mr. Chairman: You are using the sentence you quoted above?

Mr. Morin: That is correct; from page 1 of his text, and the other one is from page 4.

Mr. Chairman: The motion now before you would read: "This difficult process has drawn Mr. Fontaine to state"--the quote is, "My sole purpose" down to the word "province," from his statement of September 19--"My sole purpose from the day I was elected an MPP was to serve the people of my riding and in my capacity as Minister of Northern Development and Mines to serve the people of this province." Then a second quote would read: "My motives were honourable, but I see now that my actions could have been interpreted differently by some."

Mr. Chairman: Are you clear on the motion that is now before you? This time around fervently adhere to the motion that is front of you.

Mr. Treleaven: Mr. Chairman, right off the top I have to vote against the inclusion of this. You stated a few minutes ago that the committee in trying to be ultimately fair was putting in Mr. Fontaine's total testimony. It is not putting in the total testimony of Mary Eberts, Mr. Martin, Mr. Therriault, etc., showing discrepancies that could indicate a difference in motive. Again, this is talking about motives. We have not done this. To pluck this out of the bottom is completely distorting what we have been doing in the past three days in trying to come at a report of factual, agreeable statements.

11:40

Mr. Chairman: Any other members?

Mr. Warner: I have a feeling we are kind of losing grip on reality here. I cannot believe what is unfolding. This thing is kind of getting blown



out of proportion. What Mr. Morin has proposed is fact. The quotes he chose are from the statement Mr. Fontaine made before the committee. They are verbatim, right out of the report.

Mr. Treleaven: You say they are facts. It is a fact that he stated them.

Mr. Warner: Yes.

Mr. Treleaven: The contents thereof are not necessarily fact.

Mr. Warner: Gilles did not make up those words.

Mr. Treleaven: Correct. They are already in the report once.

Mr. Warner: What he is doing is, he chose those to highlight. He prefaced it by saying the difficult process has prompted Mr. Fontaine to say such and such, which is the atmosphere in which Mr. Fontaine was operating when he was here. He basically said to us at the outset, "The past three months have been very difficult for me and my family; we have personally suffered through it," and so on. Then he made certain remarks, a couple of which Gilles has picked out that he wishes to highlight. I cannot see the problem with that. I really do not.

I have one small point. It seems to me that logically the motion belongs in part IV, because that is where we deal with the most serious aspect of the whole business, or it belongs as point 7, because it is our conclusion.

Mr. Chairman: No. I would point out that Mr. Morin, when he introduced it, asked that it be set in a different section--

Mr. Warner: Which different section?

Mr. Chairman: --and in following that, we would put an additional section in here. It would probably be called part IV--

Mr. Warner: Yes.

Mr. Chairman: --and it would come just before the appendices.

Mr. Warner: Is there a title for this? Is part IV all by itself, entitled "True Confessions"?

Mr. Chairman: It would be part IV, or you could put something else on it if you want--

Mr. Warner: You do not know.

Mr. Chairman: --but it is not meant to be included as part of the conclusions section.

Mr. Warner: This whole thing is bizarre.

Mr. Chairman: Am I wrong?

Mr. Morin: If it helps smooth the ruffled feathers--

Mr. Chairman: You want it included in part III as a point 7; is that what you want to do?

Mr. Morin: Point 7.

Mr. Chairman: Okay. What you are proposing is that it would be set out as point 7 in part III, which we have called "Conclusions."

Mr. O'Connor: I do not know where we are this on this, but I suggest the appropriate place to include it is after part III, as was indicated by Mr. Warner. It seems to fit there with the context of that particular part. Have we not already included Mr. Fontaine's full statement as a separate part of the whole report?

Mr. Chairman: Yes.

Mr. O'Connor: It just does not make sense to then take an excerpt of it and make it another part, or even a separate conclusion. This is not the conclusion we came to. If we include it as point 7, it appears it is a conclusion of the committee; and it is not the conclusion of the committee. It is a statement by Mr. Fontaine which, as I said before, as a sop to him we are prepared to highlight in this fashion, the defence he put up.

It is a compromise, as we have all learned from a meeting that took place during the recess, but I do not think we should be in a position of highlighting it in the manner suggested. That is all I have to say.

Mr. Chairman: To make you a little more aware of it, there seems to be some disagreement as to whether it would be included in part III as a conclusion or whether it would be appropriate to add a part IV. Any further debate on the matter?

Ms. Hart: I just re-read paragraph 4 and it does not seem to flow from that at all, as far as I can tell.

Mr. Chairman: This would be a new part IV to the report.

Ms. Hart: Part IV? Speaking personally, it does not much matter to me whether it is a part IV or whether it is included as paragraph 7 of the conclusions.

Mr. Warner: Put it wherever you want.

Mr. Chairman: I have a very vivid imagination, Mr. Warner, and I would put it on a brass plaque before I insert it.

Mr. Warner: Frankly, it does not matter.

Mr. Chairman: To you.

Mr. Warner: I doubt that it matters to the folks in my riding.

Mr. Chairman: Any further debate on the point?

Mr. Sterling: Before we vote on this motion, I want to bring it to the attention of the committee members that since much of the motivation behind this motion was because of some statement that was attributed to me, I offered to put this motion to the committee in a gentlemanly manner.

I am getting a little tired of apologizing for something somebody else said I said. I am very disappointed that the Liberal caucus would not allow me

to put this motion forward to show that the feeling of this committee towards Mr. Fontaine is not of a personal nature.

Interjection.

Mr. Sterling: The caucus accepted the staff's advice on this. I am very upset with their vindictiveness towards me, even though it seems Mr. Fontaine has accepted my apology.

Mr. Chairman: Does anyone care to debate this motion while we are here?

Ms. Hart: I would like to respond to that--

Mr. Martel: For Christ's sake--pardon me, but I am getting a little tired of this childishness. Maybe your time is not valuable, but mine is. Jesus Murphy!

Ms. Hart: Mr. Martel, the Liberal caucus has just been accused of being vindictive. I would like to put it on the record that there is no intention whatsoever to be vindictive. Our colleague Mr. Fontaine has been put through a very difficult process. It has also been difficult for us.

We have been trying for almost the past day and a half to come up with something we could live with that would go some way towards addressing our concerns. It was merely a continuation of that in that we would like to put forward that amendment and it had nothing whatsoever to do with vindictiveness.

Mr. Chairman: Okay. I am going to exercise a little prerogative, which is dangerous. I am going to ask you to withdraw your motion. I am going to ask Mr. Warner, who has some success at putting motions here, to put this motion, that as a preface to the report, at the very front, two quotes that were in the previous motion be placed. How is that?

Okay. Mr. Morin has withdrawn his motion.

Mr. Morin: I should call you Mr. Solomon.

Mr. Chairman: Mr. Warner so moves. We have had enough debate in here. Those in favour of the motion? Those opposed? The motion carries unanimously.

Before you go, just to show you how mean and vindictive I can be, for your noon-hour perusal--ha, ha--let me see exactly what we have here. This is the report, without the staples and without the little frontispiece motion which you have just passed. It includes all the various citizens who have served on our committee. It includes the table of contents, the introduction, part I and part II redrafts, as we have seen. It includes part III, the conclusions of the committee. It also includes part IV, where there are appendices.

We have the noon hour to spend a wonderful time perusing that. We will meet again at one o'clock. I would anticipate that a motion to adopt the report would be put and that the report would be forwarded to the House for its adoption.

Mr. Treleaven: You are hoping it passes and carries.



Mr. Chairman: It is not by any means a consensus.

Before you go, let me inform you that the tradition in this committee, and the new rules provide for it, has been that if there are people who want to put in a dissenting opinion, we have always agreed you can do that, but you will do so at the convenience of the committee; that is, in about 24 hours this report will go to the printer to be formally printed. If you have some words of wisdom you want to say, that is not a matter the committee will consider, but you have traditionally had the right to put in a dissenting opinion.

Since we have gone through a process of formally voting on most of the report, this may be somewhat irrelevant this time, but for your information, if you want to put a dissenting opinion together and have it included with the report, you will have about 24 hours to get that done and get it to the clerk of the committee, who will send that stuff to the printer. Do not come to me 48 hours after it has gone to the printer and ask to have it included, because physically we cannot do it.

We have always held that if somebody wants to put in yet another dissenting opinion, for the most part that provision is there, because we have worked by consensus in drafting reports. On this occasion, we worked by means of motions. If you wanted to record that you voted against something, you had the opportunity to do that, but that provision would still stand.

We are adjourned until one o'clock in this room.

The committee recessed at 11:52 a.m.



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

WEDNESDAY, SEPTEMBER 24, 1986

Afternoon Sitting





STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Laughren, F. (Nickel Belt NDP)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

Hart, C. E. (York East L) for Mr. Mancini

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, September 24, 1986

The committee resumed at 1:12 p.m. in room 228.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: We are ready to resume. I point out to you one slight change. In order to conform to previous practice, the title of the report will be Report on Allegations of Conflict of Interest concerning René Fontaine, MPP. There is a second change. You have the single-page insert with two quotes on it. It will be inserted just prior to the table of contents. There are no other changes that I am aware of.

Interjection.

Mr. Chairman: Mr. Brandt is MPP.

Ms. Madisso: And René Fontaine in this area is MPP.

Mr. Chairman: On the table of contents appendix, the bottom line will read, "Statement by Mr. René Fontaine, MPP."

Mr. Morin: Do not forget also that where you mention his quote that René takes an acute accent on René. It is not on now.

Mr. Eichmanis: We will see if we can have it in our machine.

Mr. Chairman: Are there any other spelling errors, omissions or difficulties with it? The underlining is an indication of words that were at some point altered or changed, additions, new information in the draft. That will be removed when it goes to the printers.

Mr. Eichmanis: May I point out that "this may" should perhaps be more appropriate with respect to sections 10 and 11?

Mr. Chairman: How did he title it?

Ms. Madisso: I titled it "Sections 10 and 11." I think he--

Mr. Chairman: I would just leave it as it is. Are there any further things people want to point out? I suggest it would be appropriate now to table or to present one motion to adopt the report and to move that the report be tabled with the assembly and adopted.

Mr. Warner moves that this committee adopt the report with respect to the alleged conflict of interest concerning René Fontaine, MPP, and that the report be forwarded to the House and adopted.

Those in favour? Any opposed?

Motion agreed to.

Mr. Chairman: The report is carried unanimously.

Before we adjourn I want to thank the folks who sat with us all summer long, who are at the front, who did a magnificent job under duress in strange territory. I also want to thank each one of you who did something that is unfamiliar to us. You did it well and with great patience and forbearance through a rather lengthy period of time. I appreciate your help.

Mr. Morin: I find that paying compliments to colleagues is far easier than criticizing my colleagues. I must admit that you did a superb job.

Mr. Chairman: Thank you.

Mr. Morin: There were moments when I had to hold my temper, but I think you did a good job and I am sure my colleagues will admit the same thing or will give you the same compliment.

Mr. Chairman: Get it on the record now because you will renege on it later, I am sure.

Mr. Warner: Can we have a vote on it?

Mr. Chairman: No. There will be no vote on that one.

Mr. Warner: I want to vote on it.

Mr. Martel: Take us out for dinner.

Mr. Warner: Is he taking us out for dinner? Is that what I heard you say?

Mr. Chairman: If I had an expense account, there are three people I would take to dinner and they are not sitting out there.

Mr. Warner: Merike, John and Lynn. They did a super job; they really did. It was first rate.

Mr. Chairman: Is there any further business? The committee stands adjourned until after the House resumes.

The committee adjourned at 1:16 p.m.



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

HOUSE SITTINGS  
ORGANIZATION

WEDNESDAY, OCTOBER 22, 1986



STANDING COMMITTEE-ON-THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Dean, G. H. (Wentworth PC)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Warner, D. W. (Scarborough-Ellesmere NDP)

Substitution:

Poirier, J. (Prescott-Russell L) for Mr. Newman

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, October 22, 1986

The committee met at 3:47 p.m. in room 228.

Mr. Chairman: We have a quorum.

The proposals for today include running through what we have on our agenda for the fall so far and setting some priorities on those, and I will ask you to deal with some other matters that we also either have on our agenda now or will have shortly. Let me go through the ones that are printed and have been circulated first.

HOUSE SITTINGS

Mr. Chairman: You may recall, and you may have seen in other places, a letter from Dan Rath, president of the legislative press gallery. We have a request from them to change the sitting time of the House.

There are several options that could be exercised. It could be as simple as going from 1:30 p.m. until 6 p.m. with no change in the number of hours. Simply moving the sitting ahead half an hour would accommodate this.

I am aware there are some discussions in other quarters about a number of comments and responses to the changes that have been made in the provisional standing orders. There are several ways to handle this. We could go through a rather substantial review of the provisional standing orders, one by one, although it may be desirable to hold that over until the latter part of this session and do it when we have a little bit longer to deal with it. Or, you may want to isolate this one matter and make a recommendation to simply move the hours ahead slightly to accommodate the press gallery. That would be forwarded to the assembly and to the House leaders. What is your preference on that?

Mr. Bossy: I would say that we should isolate it.

Mr. Chairman: Just isolate it.

Mr. Bossy: I am not aware of all these other items in the rules. You say that several items have been brought to your attention. I do not have those items, so I am not aware what you are talking about.

Mr. Chairman: They are just things individual members have brought to my attention, some small and some large. Since they have not written us a letter and put things on our agenda formally, it becomes difficult to pick out what to deal with. The one matter we do have is the matter from the press gallery. Is it your preference then to deal with this one matter in isolation, make a quick recommendation on it and dispense with it? Is that the way you want to proceed?

Mr. Warner: Yes.

Mr. Chairman: I guess the easiest way to proceed is for someone to give me a motion indicating a preference on the matter. We could then debate that motion. This might simplify the matter.



Mr. Mancini: We should split this into two and discuss a motion on the time we should start and have another motion to discuss and debate the time we should end the sitting, because there are feelings we should go to either 6:30, six or what have you. The problem that has been brought to us with some urgency by the press gallery is the two o'clock start. I would like to move that we change the sitting hours of the assembly or that we commence sitting in the assembly at 1:30 p.m. instead of two o'clock.

Mr. Chairman: Okay. Let us start there. We will take it as a motion that on Monday, Tuesday and Wednesday proceedings will commence at 1:30 p.m. and that on Thursday we will start at 10 a.m., recess at 12 and start again at 1:30 p.m.

Mr. Mancini: No. If that is the case, we should deal with the 1:30 start on Monday, Tuesday and Wednesday, and eliminate the Thursday portion of the debate, because that may confuse people and cause them to vote in different ways.

Mr. Chairman: Okay. You want to put a motion that simply says the routine procedures on Monday, Tuesday and Wednesday start at 1:30.

Mr. Mancini: Yes, that is my preference.

Mr. Chairman: Mr. Mancini moves that on Mondays, Tuesdays and Wednesdays, routine proceedings of the House start at 1:30 p.m.

Are there any comments on that?

Mr. Martel: Can I ask my friend to reconsider? Having spent years trying to devise a timetable, which was partially accepted with the revisions during the previous sitting, we have got ourselves into what I firmly believe is a winless situation, even at 1:30 p.m.

Let me suggest the House sit from one until 6:30 p.m. My reason for recommending this is it takes approximately two hours to get through routine proceedings before the orders of the day are commenced. There are about 30 minutes for statements--10 minutes for statements by members, 20 minutes for ministerial statements, 10 minutes for responses, and the members' statements are an additional 20 minutes, which means that by three o'clock--

Mr. Mancini: That is 50 minutes altogether.

Mr. Martel: Yes, but we always take two or three minutes before we get to question period by the time you have the prayers in.

Mr. Mancini: Let us say one hour.

Mr. Martel: Yes. If we start at one, by three o'clock most committees will have started to work. Our problem is bodies, always trying to man committees. We are running helter-skelter now with insufficient numbers of people. If we did that, we could, for example, start the Monday meeting of the standing committee on social development at three. We could let it run until five, which would give us roughly the same number of hours we had under the old timetable when we had night sittings.

There would not be that much overlap where we would have two major committees running, only approximately a half-hour. I opposed that all the years I was House leader because you just cannot man them adequately. I would

start the meeting of the standing committee on resources development promptly at 4:30 p.m. There would be a half-hour overlap between the two major committees, which theoretically have 10 or 11 members each.

Mr. Poirier: I presume you can man a committee with a woman also, right?

Mr. Martel: Yes, women. Pardon me. I was just using--

Mr. Poirier: A sexist term.

Mr. Martel: Yes, a sexist term. You are right, my friend. When I say "man" I did not mean it had to be men.

Mr. Warner: He is only here for one day.

Mr. Martel: It is hard to say we would "woman" the committee, because that is not what is meant by the term.

Anyway, at 4:30 we would only have a half-hour overlap of major committees. We would run that one until 6:30 p.m., which means that on Mondays we would have two hours of social development and two hours of resources with only a half-hour overlap. The same thing would apply Tuesdays, Wednesdays and, if necessary, Thursdays.

The reason I did this is that it would give us more hours, and only an hour more per day, but with an ability to organize the committee work that does not exist now. We are running all kinds of committees helter-skelter. If one tries to get a committee cleared to sit on a given day, you cannot; you have to give something up.

While people might say we are trying to restructure the committees, I am not really. Since we sit Thursday mornings and do not have private members hour in the House, we would have more hours in the House, more hours in committee and less duplication.

We would be far better off, because we would not be trying to sit on one or two committees, one right after another, or one body at each committee. I spent three or four years trying to develop this so the hours would be equal or more and yet allow us to start at 1 p.m. and finish at 6:30 p.m.

I understand the concern one party had about its leader being briefed and so on. That poses a bit of a problem, but the overall benefit for everyone would be in terms of getting to committees, trying to do what one is doing and getting back to one's office and doing some case work. What I am hearing from all three parties now is that members simply do not have time to get to their offices to work--to do the correspondence, the phone calls and all that--particularly when one is from out of town and has to travel.

This makes a lot more sense. We could schedule without any problem at all. There is a rule that says all these major committees may not be sitting at the same time, which we have blinked at somehow. If we went to subcommittees, which was suggested, it would be further lunacy. If people went for subcommittees, not only would we have a resources committee looking at a set of estimates, but also we would have a subcommittee looking at something else.

I ask the members to take a look at that possibility. You will see how

neat it is, how easy it would be to schedule and how little overlap would be necessary, giving everyone time to do a little work.

Mr. Bossy: I agree the plan sounds very good. The main objection you will find is that many dinner meetings are held here, whereby Mr. Poirier's constituents want to treat him to dinner. That is something members have said.

Mr. Martel: Are you talking about lunch?

Mr. Bossy: Yes. I say dinner. I am sorry.

Mr. Poirier: It is your cultural trait.

Mr. Bossy: In farmer language, dinner is dinner, supper is supper.

Mr. Chairman: The noon meal.

Mr. Martel: I understand the concern with that.

Mr. Dean: I see some problem with the early start of 1 p.m.

Mr. Chairman: The motion is for 1:30 p.m.

Mr. Dean: I am sorry. I should be speaking to the motion. I was responding to Mr. Martel's suggestion of 1 p.m.

Mr. Mancini: He was not speaking to the motion either.

Mr. Martel: I am prepared to amend it.

Mr. Chairman: We are used to Mr. Martel.

Mr. Martel: I tell you, I did not spend four or five years developing that for nothing. It is for your protection, my friend.

Mr. Dean: I see some problem with the 1 p.m. start, not so much with the 1:30 p.m. one. My principle question, to myself as much as to anyone else, is, do we really have to bend the hours to suit the press?

Mr. Chairman: No, but the request is here from the press gallery.

Mr. Dean: I know we have to consider it, but do we have to do it?

Mr. Chairman: No.

Mr. Dean: After all, not that we are the Queen or anybody, but I presume they get there when she is ready.

Mr. Warner: Let us see if we can find some common ground, because I am still not clear about what you mean. Are you saying we should stay with the 2 p.m. start?

16:00

Mr. Dean: From the standpoint of not having a jam-up of time between a morning committee and an afternoon House--for example, today I was substituting on a committee that did not get out until 12:45 p.m. These things happen from time to time.



Mr. Warner: Yes. I think the request from the press gallery is reasonable. There is no problem in backing up to 1:30. Now Elie has made the point that we should start at one o'clock. Obviously, if committees are sitting in the morning and they interfere with that starting time, then their sitting times will have to be adjusted as well. It does not make a whole lot of sense to me to sit on a committee from 10 until 12 and then start in the House at one.

Mr. Warner: Perhaps we should start at the end and work our way back. If we can agree two o'clock should be altered, then it is a question of what we alter it to. It is either 1:30 p.m., which is acceptable, or one o'clock. If we hold a bit more discussion around that--we will start from the beginning, take the starting time and discuss where we want to move it, and then take the end time and see how we want to move that. I am happy with either 1:30 or one o'clock. If there is a problem with the morning committees, then we have to adjust that. Elie's suggestion, for example, is that if we start at one o'clock, perhaps those committees do not need to sit in the morning.

Mr. Martel: That is right.

Mr. Warner: Perhaps the committees now scheduled for morning sittings could be worked into the afternoon. If we split the afternoon time into two chunks--i.e. if we had a time from three until 6:30 or something and split that time in half--then we would not need the morning sittings. Mr. Bossy might have to go for lunch at 11:30, if he wanted an hour and a half for lunch.

Mr. Bossy: I do not have lunch; I have dinner.

Mr. Warner: I'm sorry. When he goes for his main meal, he may want to go at 11:30, which will give him an hour and a half. I can see merit in sitting from one until 6:30 p.m., but I am flexible. I do want to make it clear I would like to move from the two o'clock start, and either 1:30 or one o'clock is agreeable with me.

Mr. Martel: Can I just respond to committee?

Mr. Chairman: Let us try to get around the room. You will be back in again.

Mr. Poirier: Having just come back at lunch hour, I did not have a lunch-time meal. I am just coming back from an official opening. A lot of us get asked for many noon functions, as MPPs, ministers or parliamentary assistants, what have you. As much as I love Mr. Martel's idea--in theory it sounds extremely interesting; there is nothing I would like more than to start at one--but from what I have lived through in the past two years, I do not think it is practical, unfortunately. I still find two o'clock way too late; I can live with 1:30. It is the best compromise possible between both positions, so I will support this motion for 1:30 p.m.

Mr. Martel: What worries me is that what I am attempting to do before we get a mindset here--

Mr. Chairman: You?

Mr. Martel: I have a mindset, but it is because I have looked at it long and hard. Look at Orders and Notices today and look at Monday's. Major

committees are sitting simultaneously, which you cannot man. Committees are sitting in the morning. What would be wrong with taking a major committee, with at least 11 or 13 people, and a smaller committee? We might be able to get away with basically morning sittings, so that we would have time to go--

The House of Commons does not start at one. It starts at 11 a.m. now, does it not? We are saying we cannot squeeze in half an hour to accommodate ourselves, to make our timetables more workable, to do our constituency work, and make our correspondence and our telephone calls more manageable, but we are prepared to move it a half-hour. What is half an hour in the whole day going to mean to you? It really is tinkering rather than making it workable.

We all have the same problems about coming in at one o'clock, but 30 minutes is not going to mean that much in getting the work of the Legislature done and in the member getting his own constituency work done. I am trying to give us time to do these things. If we look carefully at a schedule before we vote on what we can shift of the existing schedule, we will find that nearly all of it can be shifted to the afternoon, which would free us to do something.

As it is now, you are running to committee or running back to your office. You are supposed to be on a committee or it is your turn in the House and the whip is chasing you down. As I wander around these halls, Everybody says to me: "I like the schedule better than I liked coming back at night, but I am finding it difficult to get my communication and everything else done." Why tinker with half an hour when an hour would give you time, would free you to do that work, particularly if we could move some of the morning committees to the afternoon? Ottawa can sit at 11 a.m. and we started at 1 p.m. It does not seem to hamper them there; why us here, for the sake of half an hour?

Mr. Morin: The letter written by Dan Rath says, "We believe a fundamental mistake has been made by giving lower priority to ministerial statements and responses and oral questions." If we were to start at 1:30, have ministerial statements first, then oral questions and the members' statements after that--

Mr. Chairman: No.

Mr. Morin: Why?

Mr. Martel: You want to get rid of the points of order.

Mr. Chairman: That was the idea of moving the members' statements initially. If we did not provide a vehicle for members to raise their local issues, we would compound things by having points of privilege all the time. It has eliminated the points of privilege at the start.

Mr. Warner: That aspect has worked. We are not getting the members popping up and down with so-called points of order.

Mr. Martel: Usually they they call them points of information.

Mr. Warner: Yes, points of information.

Mr. Morin: I am more in favour of 1:30 p.m.

Mr. Poirier: One point, Mr. Martel: It is those noon-time, lunch-time functions. I agree with you, but if those lunch-time functions are

designed at lunch-time, it is for a specific reason. They would not or might not want to move them forward into the morning to free us for a 1 p.m. sitting. That is the whole problem. There is a reason behind all these events planned for lunch-time. To be back at one o'clock--today it took us three quarters of an hour to get from there back to the House on time. They would not be able to do it.

Mr. Mancini: Mr. Mancini, you cannot compare Ottawa and Toronto. Toronto has three million people and there are all kinds of things going on. There are all kinds of groups we have to give attention to and listen to. It is not like Ottawa at all.

Mr. Martel: But we do not man the House. The time of the day when we have the greatest number of members in the House is at question period. If one of us is absent, so what? That is when you do all the work. Ministers arrange their schedules. If they are not there, they do not give statements that day. That is the most flexible time of the day because that is when the most numbers are around.

Mr. Poirier: It is not the same.

Mr. Martel: It is after question period that you run into a problem of bodies.

Mr. Dean: If we are going to do anything more than just move it half an hour ahead, we should not do it with things we are grasping out of the air. We should have somebody or two or three people say, "Here are two ways we can accomplish what we want, and if necessary, propose a shift of some of the committee meetings." We are really just discussing a happy thought from time to time. That is a poor way to reorganize it. I was not on this committee when it went through the other reorganization. I presume you started off like this, but you probably had somebody work out some logical order of things. If we are going to change things substantially to accommodate the press, we need more than just a few minutes' discussion today.

Mr. Chairman: We went through this before in our initial recommendations. I would not want to preclude a major discussion such as Mr. Martel is trying to get started today on reorganizing how the business is set up during the day, but I suggest that it might be better to leave that argument until we make a report, I think it is by December 18, on the provisional standing orders. It might be better to stick to the minimal change today. Any motion that might pass here today would not preclude Mr. Martel from bringing back his argument about how committee time is organized. We have been around the room. We seem to have had a reasonable kick at the first part of this.

16:10

Are you ready for the question? Mr. Mancini has moved that on Monday, Tuesday and Wednesday the proceedings start at 1:30 p.m.

All those in favour will please say "aye."

All those opposed will please say "nay"

Mr. Martel is opposed.

Motion agreed to.



Mr. Chairman: Mr. Mancini moves that on Monday, Tuesday and Wednesday the House adjourn at six o'clock.

Mr. Warner: Hold on a minute. All you have done is shift the block of time back half an hour.

Mr. Chairman: That is right.

Mr. Warner: I got this little message floating through the air that people were concerned about the lack of time to accomplish such things as legislation and estimates and so on, so I assumed that by extending it half an hour each day--

Mr. Mancini: We are assuming things will move much faster. We are going to give everybody a chance to help move things faster.

Mr. Warner: How the hell can you--Remo, come on.

Mr. Mancini: Kind of speed up the system.

Mr. Warner: How? Come on; get serious.

Mr. Martel: There is a discussion going on now.

Mr. Mancini: We are not part of that discussion.

Mr. Martel: Just a second. This is the Legislative Assembly. You cannot operate in a vacuum. There is a discussion about sitting at night now going on.

Mr. Mancini: We have not initiated that discussion yet.

Mr. Martel: I am sorry. The possibility of sitting at night has been at the House leaders' meeting.

Mr. Bossy: The House leaders are going to have to deal with what we recommend.

Mr. Martel: Just a moment; let me finish.

Mr. Bossy: If they are not happy with it, it will be brought back to the committee.

Mr. Martel: The House leaders are doing a number of things. They are discussing the possibility of sitting at night to finish estimates. I am not coming back at night. We finally got rid of that zoo. They are also talking about structuring subcommittees by splitting the standing committee on resources development into two committees. If you think you are having trouble manning committees now, they are talking about the chairman of the standing committee on resources development doing one thing and a subcommittee doing another item of business at the same time.

You cannot operate in a vacuum that pretends we are not short of time. Deans was right. We are trying to move motions in a vacuum. The reality is those discussions about subcommittees sitting at night are going on now. That is why I argued for the hour. I cannot go back to that. You voted on it. Now you are trying to leave the hours exactly the same as they are. We are going

to be back here next week saying: "Wait a minute. Do we want subcommittees to operate? Do we want to sit at night?"

We cannot avoid the discussion. This is why I thought your motion was premature. Deans was close to being right. You cannot look at it in isolation. What you now are trying to do is pull us back to the same number of hours we had before you moved your first vote. Where is the time to do the work going to come from?

Mr. Dean: On a point of privilege, Mr. Chairman: I wish the member for Sudbury East (Mr. Martel) would get my name right.

Mr. Martel: Dean?

Mr. Dean: Thank you.

Mr. Martel: I am sorry.

Mr. Chairman: I think you are getting off rather lightly. He usually uses language much harsher than that. There was not even an adjective thrown in.

Mr. Martel: Do you want to come back at night to do some estimates?

Mr. Bossy: We are making a motion about six o'clock. Is that talking about coming back at night?

Mr. Martel: They are talking about adding hours now or going to subcommittees to do other work so we can get the work done. That is why I said we should look at an hour and see what it gives us. You guys said no. I thought you were at least adding a half an hour a day, but you are talking about the same number of hours, with which we cannot do the work before us. What the hell are you doing?

Mr. Mancini: Mr. Martel must be talking about some quotes or comments made in the media or that he had with other members or things of that nature. The standing committee on the Legislative Assembly is dealing with a real proposition put forward by the gallery. We are not doing this for the benefit of the gallery.

Mr. Martel: You sure as hell are.

Mr. Mancini: Excuse me, Mr. Martel, we are doing this for the benefit of the people who watch the 6 o'clock news. It is for the citizens out there who watch the 6 o'clock news and judge what we do one way or another. We have dealt with this concern, and I think fairly, if we are interested in getting the message out to the general public as to what we do around here.

I do not disagree with you that we need a full debate on the committees and how they should sit and whether they should overlap or be in the mornings or afternoons. I do not disagree that we need a full and thorough debate on that. We can set aside some of the time of this committee to do exactly that. At the same time, you have come to the committee and said there is all kinds of talk going on that we have to add time. Maybe there is.

Mr. Warner: There is and you know it. Do not play games. Why are we acting so stupid? We are all aware of it; it is not a secret.

Mr. Mancini: Why are you so sensitive about this?

Mr. Dean: Hold it, hold it. I think the chairman recognized me, for whatever value it has.

Interjection: Very little.

Mr. Dean: I do not want to get into Elie's swamp number 2 here by falling for his lengthy comments, which may be off the subject, but I do not think we should be discussing the difficulties the House leaders may be having in getting all the estimates looked after. That may be a product of the session we are into because there was not enough work done in the spring for one reason or another. I do not think that should colour the question we are talking about here.

Mr. Chairman: Are there any further comments on ending at 6 p.m. on Mondays, Tuesdays and Wednesdays?

Mr. Warner: I am still waiting for some rational explanation of why we would change the 6:30 closing time we now have. That is what I am waiting for. There has been no explanation.

Mr. Poirier: One of the arguments given was that local members or those within travelling distance who have a hope of going back to their ridings for an evening function would be able to do so. My case is hopeless, living out in the maritimes of Ontario; 6 o'clock or 6:30 makes no difference. I would not get there before 9 or 10 o'clock at night. For a lot of members, there is more hope of reaching a night function if they end at 6 o'clock.

Second, I think the media would prefer that the whole thing end at 6 p.m. You can ask the press gallery through Dan Rath if you want. If we were having a vote at the close of a sitting, there would be a chance the result of the vote would appear on the 6 o'clock news.

Interjection: Baloney.

Mr. Poirier: I do not think that is baloney.

Mr. Warner: If you do not want play it straightforward, I will not either. If you want to play hardball--

Mr. Martel: Let me spin my wheels once more.

Mr. Chairman: Make it a short spin.

Mr. Martel: It is going to be short.

For 19 years, we had rules around here that accommodated the Toronto members and those who could go home. They are the ones who can go to functions at night. We are the ones who sit here. The sooner we can get the business done during the week so that we can be home on Friday or something such as that, the better off we are. If they want to go to a meeting in Toronto, they can go because nothing starts before 7 o'clock or 7:30 and you can get anywhere in Toronto within an hour.

It would be nuts to continue to operate the rules of the Legislature for the Toronto members. We should operate it for the benefit of everyone in this zoo. If we are going to have to come back here in January and February



because, as Mr. Dean says, we cannot look at what is going on here--we had better look at what is going on here. I remind you that it is going to be those who are away from home much more than the Toronto and Hamilton members who can go home at night. It is you who sits down here, Poirier, like me from the boonies of northern Ontario, who will be back here in January and February. They will go home at night and you and Mancini and I will be here in January and February to accommodate them.

I am tired of a set of rules that caters to the Toronto gang. I say that quite categorically. We have to look at rules that give us as much chance to get home and stay home when we are not needed here. Those guys go home every night and are with their families; we are not. If we are not prepared to make rules to suit the overwhelming majority of that zoo upstairs, then we deserve to sit in January, February and March if necessary.

16:20

Mr. Chairman: The motion is that the house adjourn at 6 p.m. Are there any further comments on that motion? Are you ready for the vote?

Mr. Warner: I want a recorded vote.

Mr. Warner: In case you want to play hardball, I catch the signal; I understand what the game is.

Mr. Chairman: Mr. Warner, you asked for a recorded vote and you are about to get it.

The committee divided on Mr. Mancini's the motion, which was agreed to on the following vote:

Ayes

Bossy, Dean, Mancini, Morin, Poirier, Treleaven.

Nays

Martel, Warner.

Ayes 6; nays 2.

Mr. Chairman: We need one more motion to deal with the Thursday sitting.

Mr. Mancini moves that on Thursday the House sit from 10 a.m. to 12 noon and from 1:30 p.m. to 6 p.m.

Mr. Chairman: Is there a need for discussion of that?

Mr. Dean: We should not get into too thorough a discussion, but where there is a morning sitting up to 12 noon, it will be tight for some people some times to get to the 1:30 portion.

Mr. Chairman: Tight or not, it seems to be consistent to go from 1:30 to 6 each day. The motion is that on Thursday, the sitting be from 10 to 12 for private members' hour and from 1:30 to 6.

Mr. Martel: We would like to record it.

The committee divided on Mr. Mancini's motion, which was agreed to on the following vote:

Ayes

Bossy, Dean, Mancini, Morin, Poirier, Treleaven.

Nays

Martel, Warner.

Ayes 6; nays 2.

Mr. Chairman: We should note that does not preclude any further consideration we might have in a final report on the provisional standing orders.

ORGANIZATION

The next matter is one we should consider but I do not think there is much room for discussion here. I take it that the Aird report is the priority matter before the committee this fall and that we will begin with it as soon as possible. We have had the staff prepare some initial materials that you are about to get which will cover the conflict of interest reports done this summer and the Aird report. Mr. Eichmanis, I believe you have some preliminary comments in there on it.

Mr. Eichmanis: The summary of the Aird report.

Mr. Chairman: The summary of the Aird report. Is there any discussion on that? We have permission now to sit Wednesday afternoon and Thursday morning, but you may want to set over the beginning of the Aird report until next Wednesday afternoon. Then we would go through the staff report and begin to draft our comments. If you want, Merike Madisso is still with us and we might be able to take a shot at a legislative proposal such as is contained in the Aird report and some alterations there.

I also point out that the Aird report and all the matters included in it are before the committee. If you have other related matters that Mr. Aird touched on in his report but did not elaborate on, or that you think it is appropriate to work in, give us notice of the matters you want to raise as soon as you can so that we can have the staff prepare it.

We will naturally be looking at the summaries we already have and will reprint for you legislation in other jurisdictions, how other parliaments in Canada do this and things of that nature. We have collected a good deal of material over the years on American jurisdictions, state legislatures and Congress. I take it it is a given that the Aird report will be our first priority.

Mr. Treleaven: What kind of time frame are you or anybody contemplating?

Mr. Chairman: Thursday morning.

Mr. Treleaven: No, the time frame. Do you contemplate this thing taking a couple of weeks, a couple of months or a couple of years?

Mr. Chairman: You certainly could spend all those. My version is that it is our obligation to report in this fall session. I would rather have us take the short route on this and if there are larger questions, and I can think of some, that you might want to deliberate on for several centuries, we would set those aside. But of prime importance is to put in place recommendations for coverage of conflict of interest this fall in this Legislature.

What this means is that if we come upon larger philosophical questions, so to speak, we would not make them hold up the entire reporting process. For example, in the matter of disclosure, in several American jurisdictions they are gradually going into a process whereby everybody who is connected with that family must file disclosure. We could very easily get bogged down on whether it should be two members of a family, three members of a family, sons, daughters; we could argue that for a few years.

I would encourage you--I cannot prevent you, but I would encourage you--to address the larger problem but not to have long philosophical arguments about it. There is some urgency to establishing as clearly and as quickly as we can a new set of guidelines in Ontario.

Mr. Warner: I hope the committee will agree that this item is a priority item and that we should do our utmost to get a complete and, I hope, totally agreed upon report out of this committee as quickly as possible, because the experience from the summer surely was not a pleasant one for anyone connected with it, and the sooner we can come up with some legislation, the better.

I have one question. You made mention of other jurisdictions. Do we have any sort of random samples?

Mr. Chairman: No, we do not have them in the kits, but I have piles of paper in my office that we picked up from Washington, Sacramento, New York state and Ottawa.

Mr. Warner: Yes, I remember some of that. Do we have any from any Commonwealth jurisdictions?

Mr. Chairman: We have all the Canadian provinces and the government of Canada.

Mr. Warner: Anything outside of Canada?

Mr. Chairman: We do not have that at hand, but we could try to get some.

Mr. Warner: I do not even know whether it exists.

Mr. Chairman: I hear, I hear.

Mr. Warner: I will get it in person, if you want. I was just looking for some kind of comparison.

Mr. Chairman: We have lots of material for comparison purposes.



Mr. Warner: All right.

Mr. Treleven: I hope that this fall we will keep things in perspective when we are considering the Aird report. By that I mean that all of us have a lot of other things going on that are at least as important as the Aird report, many of them probably considered to be more important. We should keep things in perspective and not wear all of the members of the committee down with this in mind and have blinkers on.

Mr. Chairman: Yes. My reading of the Aird report, frankly, is that the outline or the network upon which everything you ever wanted to think about in terms of conflict of interest is contained in the Aird report. There are things in there that someone could take away and write a book on for three of four years.

I am proposing that we not do that. It is more important that we put in place some guidelines this fall, and if we want to carry over, the simpler mechanism would be to identify an area where more discussion should be held, carry that on and review it in a year and do that particular item again, rather than to try to resolve it all at once.

We are not starting from scratch on this. Most of us have spent all summer on this particular matter.

Mr. Bossy: It has been quite well identified by the Premier (Mr. Peterson), by the Attorney General (Mr. Scott) or by whoever has talked on this subject. Whatever our report will be, there definitely will be legislation to cover it, and we are going further than guidelines.

Mr. Chairman: Yes.

Mr. Bossy: We are going to legislation, and I appreciate the summary that John has put together. It is a good working document, and if we take this piece by piece, we are going to arrive at what we want, really. That way, if we work from that aspect and do our own briefing on the basis of the summary, we can have the main body of our report pretty well already covered. We will have to tie in loose odds and ends or other information that we might have gathered, but that will all come into some of the summaries.

16:30

Mr. Chairman: I would caution you to be mindful that, if you are committed to the concept not only that we would table a report but also that as part of the report we would make a recommendation for legislation to be in place this fall, the report cannot leave here in November and be dealt with by the end of December. If we are serious about having legislative options put together by the end of this fall session, we pretty much force ourselves to table the report by the end of October or early November at the latest. This means we would have a couple of weeks' time to go through our committee report with legislative recommendations and put them forward to the House. That is the time frame that someone was asking about.

Mr. Mancini: That is a very ambitious schedule, if you believe we can get it done by the end of the month. It is already October 22. If we are talking about the end of the month, it does not give us much time.

Mr. Chairman: I do not think the end of the month is practical in terms of finishing our report, but I am saying that if we want it to be in law

in Ontario by the end of December, this committee will have to report, at the outside, by mid-November with a legislative proposal to get it even on stream to be dealt with. Therefore, you do have that kind of time frame.

Mr. Warner: That should not be a problem.

Mr. Chairman: I would remind you that most of us have now sat in committee rooms for the better part of four months dealing with conflict of interest in one form or another, so we are not exactly beginning a new process here.

Mr. Mancini: If I may just finish, we appreciate your remarks and we all understand that this matter of conflict of interest and what has flowed from it, the Aird report, is very important. The opposition made it extremely important. It had two committees sit all summer and part of the fall to deal with matters of conflict of interest, and it seemed to have a great deal of interest in this matter during the past spring. I do not in any way say they should not have done that.

That said, I found Mr. Treleaven's comments somewhat curious. I did not fully understand what he meant when he said that some of us were busy and asked how much time we were going to spend on this. I guess we are going to spend the amount of time we need to finish it up. During our sittings, our hearings on Mr. Fontaine--in this committee, anyway--motions were made by Mr. Treleaven's party that we should receive the Aird report before the hearings were adjourned. Thus, there seemed to be a lot of concern about the Aird report then, more than there seems to be at the present time.

I have to agree entirely with Mr. Warner. He has put it well that this is important. It is important for all members of the House. With things that have happened in Ottawa and unfortunate circumstances that took place here, I think the public want us to move; they want us to do something and they want to feel that the members of the Legislature are interested in this.

I generally think the members of the public want to keep their members of Parliament out of trouble. They may not like us as a group, but if you ask about an individual member, you will find that he or she has a lot of support and that a lot of kindness is expressed in his or her constituency towards a particular member. So while we may not be all that popular as a group, individually that is probably not the case at all.

We owe it to ourselves as members of the Legislature to have this report done, and I hope it includes all members. I hope we make sure that the report is thorough and that everybody's concerns are expressed. I hope the legislation will be fair and will allow members to have some kinds of private activities in one way or another in a fair way but will at the same time ensure that members do not fall into traps or get themselves into trouble.

Mr. Bossy: Just a short comment to follow that. The reason it is extremely important that we proceed as quickly as possible is that I believe what has happened during the course of the summer, and also what is happening in Ottawa, has been a reflection on every member of Parliament. It has not just been strictly a reflection on those who happen to have been involved in a conflict of interest. The question out there is, how many more? That has to be cleared up. Regardless of who it is, we would like to see it cleared up. That is why there is a certain element of urgency. It is to clear all of us.

Mr. Chairman: Okay. We are generally in agreement, then, that this

will be our first item and that we will deal with it as quickly as we can. We have three other items that remain on the agenda from the spring sitting. I take it there is not the same urgency to the estimates for the office of the chief election officer and that it may go a little lower on the list.

We have had Bill 34 on our agenda, and it remains there. I should report to you that there has been some discussion about trying to get that referred to another committee. The difficulty is that there is no more room on anybody else's agenda, either, and we have, of course, gone through the process of the public hearings and receiving briefs and information on it, so it remains with us. I have tried to make it clear to people that we cannot do all things at once, and if we are doing the conflict-of-interest stuff first, Bill 34 will have to wait its turn in committee.

That is where it now sits. If there is a sense of urgency about that bill, it may still be referred to another committee; but as far as our agenda goes, it will remain an agenda item. We will deal with it if and when we get around to it.

The next item that remains on the agenda is that we still have one of those premature releases of a draft report of the select committee on energy. Let me make a little suggestion to you. We get these things referred to us. Everyone seems to be very angry when somebody leaks a report. The anger seems to dissipate right after the motion is moved to refer it to this committee, and no one seems to want to do anything about it.

Let me suggest that we do a short report to the chamber on this matter and simply say: "We are not going to do anything on this one. We are going to remind you that a lot of committees are meeting in camera when there is really no need for them to do so." We just proved in going through the conflict-of-interest hearings that you can do your business in public, as you would expect a lot of people to do. A lot of times we go in camera for no other reason than the convenience of members.

That would stop some of it. I cannot really think of a--

Mr. Morin: Do you mean for all committees?

Mr. Chairman: Yes. I cannot think of very many reasons around here for which a committee--

Mr. Morin: But there are occasions, though, where it has to be in camera.

Mr. Chairman: Yes. I grant you that there are reasonable grounds from time to time to go in camera, but it has also become a habit as much as anything else. For example, we drafted a very controversial report on the record all the time, and we survived it. If we can do it on a hot item such as that, there are a lot of other people who, on not quite so controversial items, could draft their reports on the record as well. Therefore, maybe I could give a slight caution such as that.

Finally, I would like to say that the next time somebody refers one, we are going to ask the Ontario Provincial Police to do the investigation that should be done. If you refer it, what it means from now on is that we do not get some hot potato that nobody wants to do anything about.



Mr. Morin: That is fraught with danger.

Mr. Chairman: It may be fraught with danger, but frankly, I am sick and tired of everybody being very angry that somebody has leaked a report, and a week later, when I bring it to the committee, absolutely no one cares that it was leaked. You either care about it or you do not, and if you care about it enough to refer it to the committee to have us investigate it, the only thing I can think of is that either we hire a private detective to do this work or get the OPP to investigate, or do not send these things to us.

Mr. Treleaven: I am with you on the last one. We have had three or four of these in the last year and a half, and I personally am not going to waste any of my time coming along to the inevitable result: "We really do not know who did it, but you are bad boys, you should not do it and do not do it again." It is waste of everybody's time. Either we play hardball or we tell them, "Do not bother," and if they send it to us, we return it saying: "Thank you. We decline to deal with it."

16:40

Mr. Warner: I cannot remember whether all of us were here at the time we went through the last complaint; I think it was around Darlington, energy. What came out of that, to me, was that, first of all, it was absolutely impossible for us to find out who did it. Second, the report over which they were debating could probably have been done in the open; it did not need to be done in camera. It was a bit of a tempest in a teapot. People were upset because it had been released early, but it was primarily either that their feelings were hurt or that they felt one party had scooped a story ahead of the other. It certainly was not anything more serious than that.

I am inclined to go along with what the chairman suggests, that: (1) we recommend that committees seriously consider when they actually need to go in camera and use it only under unusual or extreme circumstances; and (2) the next time we get one of these, since we cannot investigate them ourselves, we simply turn it over to the OPP and let them investigate. Maybe that will deter members from dealing with these matters in a somewhat frivolous way, and also deter them from doing a bit of gamesmanship. Around the Hydro one, that is really what it boiled down to: a bit of gamemanship between a couple of politicians. Maybe that will cool them off a bit.

As the chairman mentioned, when we dealt with the Fontaine inquiry, that was all on the record and we did the report. For starters, the moment we said it was on the record, we lost the press; because it was not behind closed doors, they were not so inclined to be here. As it all unravelled, they got the story; they got all the facts. Nobody played games with it; there was no opportunity for one member to upstage another. We simply dealt with the material straight away.

I find it a waste of time, quite frankly. When we went through the last one on the Darlington stuff, it was a waste of our time.

Mr. Chairman: Just before Mr. Morin gets on, maybe the way to do this is to say, "A motion to refer the premature disclosure of a report must be framed in the following ways," or something like this: "That a report be prepared by the Ontario Provincial Police and that the report be referred to the standing committee on the Legislative Assembly."

Something should be in there that says you cannot just frivolously refer

this off to committee. We have no ability to investigate who leaked a report. I have no inclination to send Lynn out to find out who leaked a report. I do not know how she would do that. She has no legal power to seek out documents, to investigate, to report to us. We do not, as a committee, have the tools to do that.

If somebody thinks it is a very serious matter, then whether it is the OPP or some other agency that ought to do the investigating, before we get it we should have evidence presented to the committee on the matter of the leaking of the report. If we do not get that evidence, there is nothing we can do about it, and we might just as well say so.

Mr. Morin: The only danger I see with the OPP is that immediately when you mention the word "OPP," you think of a criminal investigation. Is it a crime to leak a report?

Mr. Chairman: Yes, it is.

Mr. Morin: Let me finish. It is a crime in our eyes in the sense that somebody is leaking information.

Mr. Chairman: It is a violation of one's oath under the Legislative Assembly Act.

Mr. Morin: Okay. Here is something to consider. We want to make a recommendation. You mentioned that Mr. Aird had recommended we should have a commissioner looking at conflict of interest. Perhaps if our rules are very strict as far as conflict-of-interest guidelines are concerned, he will not be very busy; he will not be called, we hope, very often. Why not give him that responsibility instead of using the OPP?

It is something to consider: somebody who is within our organization. What is next after that if we ask the OPP to look into some errors that some of our members may commit unintentionally? We saw it this summer, people landing themselves in situations who, had they known the consequences, would have been very careful. Why involve the OPP?

Mr. Chairman: I do not care whether it is the OPP, the Mounties or the KGB.

Mr. Morin: You mentioned an agency of some sort.

Mr. Chairman: Yes.

Mr. Morin: I would much prefer that rather than use the OPP. What you are trying to say is that you do not want to face the same situation as we had this summer, because let me tell you, emotionally it was difficult for all of us; Mr. Warner mentioned that. Never again do I want to go through that, because by judging one of our colleagues we were judging ourselves. The same situation, unintentionally, can happen to us again. You are trying to have an agency of some sort that will look into these types of matters. This I agree with, but do not say the Ontario Provincial Police.

Mr. Chairman: All right. Somebody else.

Mr. Bossy: When an occasion such as that occurs and consideration of it gets transferred to this committee, I still feel this committee should act only as a preliminary hearing, to judge whether it should go to another body.

Mr. Chairman: My problem is we have no investigative ability, so we cannot conduct the preliminary hearing required.

Mr. Mancini: We investigated Fontaine pretty well.

Mr. Treleaven: This is different.

Mr. Warner: Do not mix them up. They are totally different matters. You listened to--who came in front of? Ed Philip. Who was the Conservative?

Mr. Mancini: And his lawyer.

Mr. Warner: A Conservative MPP came in here too.

Interjection: Shymko.

Mr. Warner: Yuri Shymko. Right? He came in. They were members of another committee. They dealt with this stuff, their report, and somehow, mysteriously, it was leaked to the press. Nobody knew how it got there. Their committee did not understand how the material leaked out, but somehow our committee is supposed to know what their committee did not know about the leak. That is lunacy.

Mr. Mancini: It is up to the committee chairman.

Mr. Warner: That is lunacy.

Mr. Chairman: It would make more sense, frankly, to tell them at the very least: "Do us a favour. Do not refer that stuff to this committee. Refer it back to the committee where the leak came from."

Mr. Mancini: Refer it to the Speaker.

Mr. Chairman: The Speaker has no more tools than we do. What can the Speaker do? At the very best, I envisage the committee could invite in front of it every single member of the other committee, every staff member and every person who had access to the information, and perhaps one of them would give us a confession and shoot himself in the head. We have no ability to deal with this. That is my problem.

I am not anxious to discharge this matter today, but I would like a brief report--and perhaps you can turn some thought to it--which, in essence, would say to the House: "Do not frivolously send us these things any more. If you want to, refer them back to that committee; if you want to, refer them to some investigative body; do whatever you want but do not give us an impossible task."

Mr. Treleaven: Without some teeth in it.

Mr. Chairman: Yes. We cannot judge who leaked material unless we have some investigative capacity.

Mr. Morin: Judge each case by its own merits.

Mr. Treleaven: In every case we have seen so far, it always ends up the same.

Mr. Morin: We just decide. When a case comes to us, we decide it



should go back to the committee it came from. Your idea is very good. If there is a leak within their own committee, let them search their own souls.

Mr. Chairman: Let us simply report that the chairman and the committee are responsible for any premature disclosure of reports. If it happens, the referral will be back to that committee as opposed to us.

Mr. Mancini: I agree with that.

Mr. Warner: A caution on the use of in camera. Can we have some kind of preliminary--

Mr. Chairman: I have just asked John to draft the preliminary report. I did not use quite that terminology; I used a technical term.

Mr. Morin: (Inaudible).

Mr. Chairman: I do not like "bejabers." It is that kind of stuff.

Today, I want to run very quickly through a couple of other things individual members have brought to my attention. I think they are right: we have to deal with these items in some way this fall.

Mr. Chairman: You may recall an incident that occurred in this committee during the Fontaine hearings, when the Premier (Mr. Peterson) was present. A gentleman served some papers on the Premier and there was a little kerfuffle. At that time, I asked for a security report on the matter. I have not yet received it; and I am told I am not going to receive it either.

Mr. Treleaven: By whom?

Mr. Chairman: People in the hall. Let me put it as generally as that--some wearing black dresses.

I want to put to you that this puts me in a kind of untenable position. Frankly, I do not want to be in charge of security in the building, and I do not particularly want the committee to be in charge of it, but I have had about three incidents reported to me, and a couple have happened to me, which tell me it is time someone took this under his wing. One was that incident, where I thought I had made a request that I should have access to the security report done on that incident, which was not abnormal. If I am not to be allowed to see that, I am in a rather untenable position. I will be hesitant to call for security officers again if I do not know what their investigation will be and what they do to these people.

16:50

If something happens in my committee, I am in some way responsible for that and so is every member of my committee, and yet we are not mature enough to find out what the investigation told anybody. I think we have to turn our minds to that.

Let me give you a couple of other examples. This one I found astounding: I am told that in our caucus room, the controls for heating and air-conditioning are guarded under lock and key by security officers. The reason that was given to our staff is that it is so no one will jump out the window of our caucus room. I would like to throw a few out of that window.

Mr. Treleaven: Is there real danger of that?

Mr. Chairman: I think this is getting a little like loony-tunes time too. When one cannot turn the heat up or the air-conditioner on without calling for security, we have a problem.

Several other members have mentioned various aspects of security in and around the building. The members do not have a way to ask questions to get information to provide a point of view on security. This is not a building like a warehouse, where the boss can say, "I want the warehouse closed down at 6 p.m. and nobody gets in and out." I am told that if we are to have meetings in our caucus rooms, we have to provide security with a list of who is in attendance. We take a little exception to that. We do not think it is any of their business. They maintain we have to provide them with times and dates of meetings we hold. The reason we were given is that in case the fire alarm goes off, which it does four times a day regularly around here, they have to know who is in every room at every moment.

It is not quite at the revolutionary point yet, but it is not going to be long before people become very upset with the security in the building. We have had no public review of security. When people bring these problems to me, I do not know where to send them. I am surely not going to send them to someone who says, "Yes, we will investigate, but no, we will not tell you what the investigation brings forward." As a group that is supposedly a committee on the assembly and how it operates, I think that is in our jurisdiction and we will have to review and make some comments on that at some point.

Mr. Mancini: I want to make two points. First, we should not let the request that you made on behalf of the committee in regard to the report slide. Through yourself, this committee has asked for something which is very reasonable and important to us. If necessary, we should be prepared to make a motion today to have our chairman make the motion known to the chief of security to make them understand that we want the report and that if they deny this report, they are denying the standing committee on the Legislative Assembly this report, and therefore, they are denying the House the report. That is point one.

Mr. Chairman: We have such a motion on the record already.

Mr. Mancini: We should be prepared to reaffirm it and to--

Mr. Bossy: Call witnesses.

Mr. Mancini: My colleague Mr. Bossy makes a very good point.

Mr. Treleaven: Yes, we should call whomever is denying it or get in the head of the security.

Mr. Mancini: We will get them in here and find out why these things must be kept secret.

Mr. Warner: Why do we not bring it up in the House?

Mr. Mancini: The other thing I want to address is the overall picture and view of security. I want to enlarge on that a bit. I have had a number of conversations with my colleague Mr. Bossy, who served as a member of Parliament in Ottawa, on how they run the House of Commons, the building, services offered to members and how members have influence on how things are

run in Parliament because they work there day in and day out and should have some say about the guidelines and how things are done.

I will be very frank and honest here. I find myself in a very frustrating position. Frustrating is not the word; I find myself really dismayed. The standing committee on the Legislative Assembly is also the members' services committee. That committee is now defunct, so we have to look after members' services.

In my view, we have little impact, if any, on what happens around this building. I am prepared to stand with the committee and change once and for all the way things are done around here. We should have the overview of the security, and I want to enlarge on that. I want to include the Legislative Assembly staff, the office of administration, how members' requests are dealt with and how we can serve members better.

There seem to be almost four classes of members here. There are the ordinary members; members who serve on particular committees and may have influence in some area; the whips, who seem to have some influence in certain areas; the House leaders and the Board of Internal Economy. There are about five or six different groups going off in different directions, giving the same people different signals.

To me, it was a mess before the change of government. I know the new government is very busy, but I do not believe this committee or this government has addressed this with the urgency it needs. This committee has an opportunity now to take this matter as one of importance and to start speaking for the members of the House.

Regarding the things I have heard you tell me today about security and the New Democratic Party caucus, I find it reprehensible that someone would want to know who is attending your meetings and when you are going to be there. That is confidential stuff and information that belongs to your party. No one has a right to that information, security or otherwise.

So much has happened here in the last year. We have computers. We have enhanced offices. So many things have happened around here that nobody has a handle on anything. I am not saying it was done purposely, but in my view things are out of control and we as a group have an opportunity to correct that.

I would like us to spend a good portion of time trying to consolidate and make people aware that the Legislative Assembly committee, which is also the former members' services committee, will handle this and try to pull it together. If there are any inefficiencies in the system, we will try to eliminate them. We will try to help people bring efficiency to the system. I thought we did a phenomenal job in hiring the new Clerk of the House. I am sure a lot of people thought we could never have done it properly, but we did. I just think there is a lot there to be looked at.

Mr. Chairman: I agree that the whole matter of members' services seems to have slid off the table and we need to get it back on.

Mr. Treleaven: I agree totally with Remo.

We are not the only committee--the standing committee on public accounts could say the same thing--that is asked to spend the summer and fall to the detriment of our constituents, our families and everybody else for six, seven



or eight weeks, to do something somebody considers urgent. Yet when we get around to making recommendations, they can gather dust on various government shelves. This is not just in the past 18 months; it is in the past six years.

I think we should bring things to a bit of a head. I agree totally. Having been a chairman for four years. I know exactly what Mr. Breaugh is going through. We had it with some of the tenants' groups. There were some really dicey, semi-dangerous situations, very volatile. When I as chairman had to be brought into this room by Ontario Provincial Police officers, two ahead of me and two behind, it is pretty volatile.

17:00

Mr. Warner: That was to protect you from your own constituents.

Mr. Treleaven: In those circumstances, and nothing seems to have come out of it. No guidelines came out of it. It was left as mush, really. There were no guidelines about what the duties were, whether we were here or whether we were in the Macdonald Block. There were no guidelines, when we were sitting officially as a committee and when we were not sitting officially, about whether the security people had authority or not, et cetera.

None of the questions were answered. I think we have an opportunity now when you have--I take it the ghosts in black dresses that you met out in the corridors have told you to go to hell. I take it that is roughly it--

Mr. Chairman: Ghosts are never that black and white.

Mr. Treleaven: No, no, I suppose nothing is ever quite that black and white.

You have been advised or through osmosis have learned, that you are not likely to get the report asked for by this committee, so I will move a motion. Before I do that, who would present the report to this committee? Who would give it to you?

Mr. Chairman: I guess in the theoretical chain of command, the Sergeant at Arms would receive the report and transmit it to the Speaker.

Mr. Mancini: I do not think it works that way.

Mr. Chairman: Part of the problem is that under the existing acts the jurisdiction is split so the Ministry of Government Services gathers it, but the Speaker has--I think the actual report did go to the Speaker, so the Speaker has it.

Mr. Treleaven: The Speaker has it. Who did this committee request it from?

Mr. Chairman: We asked the head of security.

Mr. Treleaven: Who is?

Clerk of the Committee: The head of the OPP downstairs and through Tom.

Mr. Chairman: We went through the Ontario Provincial Police and through the Sergeant at Arms.

Mr. Treleaven: As a good starting point I will move that the head OPP officer in charge of security in this building come before this committee next week to give us a report, oral or written as he may choose, as requested by this committee, on--and the clerk can fill in whatever date.

Mr. Mancini: Can I just make a comment on that, please?

Mr. Treleaven: Sure. I am through. That is the motion.

Mr. Mancini: We have a small unit of six or eight OPP officers upstairs, and they work under a superintendent. We have a completely different security organization whose members are Ontario Government Security employees, and I am not sure those people have the same boss.

Mr. Treleaven: My idea, is we have got to start somewhere.

Mr. Mancini: If that is the case, I want the head of the OPP unit and I want the head of the security unit. I want them both.

Mr. Treleaven: Fine. Do you want to make that amendment?

Mr. Mancini: No, go ahead.

Mr. Treleaven: No, no. I was through, but that is a friendly amendment. I will agree with Remo putting that in. Those are the two people. We have to start somewhere.

Mr. Mancini: Okay. We are starting.

Mr. Chairman: Okay. We have a motion to invite the head of the OPP detachment here and the head of the Ontario Government Protective Service.

Mr. Bossy: I want to agree with that motion, but I just wanted to expand a little bit on the problems you mentioned earlier. It comes down to the member, not necessarily the caucus or even the committee, the security.

One irritant right now, and it is really an irritant for me, is that if I walk out of here at 6:30 p.m., I have to sign out of this place. Nobody knew I was here in the first place, but I have to sign out. I cannot believe that. To me, it is a harassment. I could see it if I had signed in. Then, for the purposes they are saying--for fire or whatever--but what they are doing right now--I do not know who had that brainwave, but anyway, they are doing it.

But the other part--and I feel it is extremely important here--is we have people roaming these corridors all day long. They are all over the place.

I have to come back to Ottawa. We are being lobbied on a daily basis by someone or by groups or whoever. Yesterday, an incident happened that did not trouble me in the end, but it was a surprise. I had set aside a half-hour for a group of three, to give them time. When I came back from a meeting, I walked into my office; there was a group of eight. Before I had finished with the group, there was a camera in my office. There were two other groups of the same body that were lobbying. I ended up with 22 people in my office.

One would never have a thing like that happen in Ottawa. There, anyone who goes to a member's office signs in at the desk and the security there clears it with your office as to whether you want to talk to the person. that

is important to me, because some day something is going to happen to a member, whoever it might be. They are not all friends out there.

That is what troubles me. If they want to change security and the protection of members here, that is, the true protection of members, no one should go to a member's office unannounced. I have them walking in from different groups. I am sure you have the same thing. If they come walking into your office and you are sitting over there with the door open, your secretary cannot say, "He is not in."

Mr. Chairman: That is as bad as an incident Mr. Treleaven raised some time ago. About three years ago they put an alarm system in each office. They moved offices but they did not reinstall the alarm systems.

Mr. Treleaven: They did not tell the staff of members that they were not hooked up.

Mr. Chairman: They did not tell anyone the alarm systems had been disconnected. People sat at their desks thinking, "The red button is an alarm system; if something goes wrong, I can push this button and a security officer will appear," but the button was not hooked up, and nobody bothered to tell anyone.

Mr. Treleaven: My staff had a very unpleasant episode with a person who signed himself out of a psychiatric hospital in Burlington to come over to hassle-- He wanted to address the Legislature on some question, I have forgotten what. It was a bit bad. Luckily, I have a male executive assistant. However, the man who came in was six foot two or three inches, 230 or 240 pounds, and it was a bit of a bad time. Frances Edge had a bit of a bad time with him also.

Finally, the security people got him out, but my female secretary--her desk is sort of trapped back against the corner--thought her emergency button worked, as they thought the one at my desk worked, only to find out they had been disconnected and were never reconnected.

This had happened, and it only came up when the incident occurred.

Mr. Bossy: Unless you have had a serious threat on your life, you do not fully realize how important that button is. I have had two in my political life, and I am not a person who has been renowned through the political circles to have those kinds of enemies. I assure you, I have had extremely serious threats on my life. I have had the Royal Canadian Mounted Police, the Ontario Provincial Police and the internal security of the government involved going through all my files, but it only takes one--

Mr. Treleaven: They love me in Oxford.

Mr. Bossy: I know what you did with the kook. You sent him to Chatham-Kent. That is what happened.

Mr. Chairman: We have a motion. Is there any further discussion on it?

Mr. Warner: I have a small list of items I would like to discuss for agenda purposes.

I will support the motion, but I am interested in what I take as the



larger question, and that is "security." The various aspects of security at this point are not open for discussion by the members of the assembly, and I think that is fundamentally wrong. It seems to me that this is the logical committee to which discussions about security should be directed.

It works in two ways. First, we should have a report about the existing security, what it attempts to do and how it functions. Second, when individual members of the assembly have questions about security or about difficulties they have experienced, they can direct their inquiries to this committee when looking for some answers. If there was a particular incident, such as the one Mr. Treleaven described with the panic button that did not work, that would quite properly be an inquiry that would come before this committee. The member wants an answer to why the security system failed.

17:10

At this stage, we do not have an opportunity to discuss that. The whole issue of security has been taken away from us. That is wrong. It properly belongs here. We should make a report back to the House, and that report should go back very quickly. It should be a short, succinct report put on the table, so the Speaker is advised that the issue of security will be directed here.

Mr. Chairman: We have a motion on the table. Those in favour? Any opposed?

Motion agreed to.

Mr. Chairman: There are a couple of other things. Part of the problem around here is that the Legislative Assembly Act is in the process of being revised. It has not been put before the chamber yet, but we will get it eventually. The proposed changes that I am aware of will resolve some of the problems, but there will be ongoing ones.

A couple of members have raised the question of survival in the building, of escaping falling plaster and things of that nature, and the larger question of renovating the building itself before it falls to the ground. I know of no committee of the Legislature that is dealing with the matter. It seems to me that renovations to the building and long-term preservation of the site ought to be somebody's concern. It is on no one's agenda. Before some grand plan to either raze the building and put us in portables somewhere or frame it and hermetically seal it is devised, perhaps a committee of the assembly ought to take that matter under its wing.

I have had a couple of requests from members to do certain things and we are at a loss on what to do with these requests, since there is not a committee of the Legislature other than this one that is even vaguely in charge of such things. The long-term renovation of the building may be a question you want to deal with.

Mr. Treleaven: You are saying that may come under the members' services portion of our jurisdiction?

Mr. Warner: Or the assembly committee.

Mr. Mancini: I agree with you entirely, Mr. Chairman. However, before we can do that, we have to get the assembly under the control of one person. I do not know where the situation stands now. I am not sure how the

government feels about it. I know the previous government wanted it kept under the jurisdiction of three, four or I do not know how many people. Nobody could get anything done. I guess whoever got up first in the morning was in charge.

If we are interested in preserving Queen's Park as an important historical site in Ontario, we have to get the building under the jurisdiction of the Speaker of the House. Then we can work with the Speaker and get these things done.

Mr. Chairman: The other question that has been brought to my attention several times during the course of the summer is exactly who makes decisions about what happens in the building and how are they made.

To wit, we made some recommendations about televising the proceedings. Those decisions promptly went to the Legislature in the form of a report, which has never been debated. It also went to the Board of Internal Economy that debated some parts of it. The board in turn made the same decisions all over again. I cannot tell you who supervised the implementation of the decisions that were taken. No one seems to know. I do know that we made similar decisions subsequently on the same items that were made by the Board of Internal Economy and that were also made by a combination of the whips and the House leaders at their meetings.

I wonder how many times we need to make decisions around here. For example, the new provisional standing orders, that is, the changing of the rules, were changed by a process that I know nothing about. I know bits and pieces but I do not know how they happened. I know some provisions were accepted and some were rejected, because people did not understand the recommendations which were rejected by I am not sure who.

Mr. Treleaven: Osmosis--those ladies in the black dresses again.

Mr. Chairman: I am not sure I want to spend a lot of time making decisions which will be made again by some other group some place else and then again by a third group. I do not mind being second-guessed from time to time. But when it gets to third and fourth guessing, they lose me and my appeal to do it.

There is a need to sit down with the Board of Internal Economy, the House leaders, the whips and anyone else and divide up the decision-making process around here. In my view it is silly for us to go through the agonies of devising new provisional orders, only to have them disappear and with no cause and effect.

I would like a better division of labour around here. If the Board of Internal Economy wants to deal with all matters having to do with members and it feels it is within its jurisdiction, we should not waste our time dealing with those matters. I must tell you that is not my preference, because members cannot get to the board quite as freely and openly as they could here.

The point is we must divide up the labour better. We must decide who makes the decision and make that reasonably clear so the same decision-making process is not repeated four and five times. Some concerns have been brought to my attention. For example, we made decisions as a committee based on certain information. But by the time it went to the next decision-making level, different kinds of information were presented and different decisions were taken. I am getting frustrated by that.



Mr. Bossy: I believe the committee serves an extremely important function. We are looking at reports from the committee to that level of final decision. It is in the implementation. One very seldom sees an entire report adopted and implemented. There is always someone who will pick it apart. We have seen the rules accepted basically on the recommendations of work we have done in this committee and I feel pretty good about that.

For all the work we did considering the televising of the Legislature, I can assure you we were very much involved in the financial end of it. I was there when the presentation was made for final financial approval--not that we had anything more to say, but we could hear and could see the final decision being made. Whatever the cost--\$4 million or \$7 million--we knew the Board of Internal Economy made the final decision on the expenditure.

I feel our input as a committee is important because we are all members of this Legislature from different parties, expressing a view in a report that we have suggested, and basically most of it was accepted. That is good.

Mr. Chairman: Let me clarify why I am angry. I was invited, for reasons which escape me, to a meeting between Ministry of Government Services people and people from the staff of the assembly on the actual construction and reconstruction of the chamber. I was told it was physically impossible to install the new audio system over the summer break. Since that could not be done the automated camera system could not be installed. The simultaneous interpretation is on a rather fly-by-night basis, if I may say so. The quality of the sound is not quite what it should be. And the only people who have hard-wired, clear sound, I understand, are the Speaker and the table officers.

I was assured there would be two full shifts working on the renovations in the chamber all summer. Not of my own volition I was here almost every working day during the summer. The largest number I ever saw at work in the chamber at any one time was four people. I am using the words "at work" very loosely. If that is somebody's definition of two full shifts of people at work over a 12-week period, we are in dire trouble in this country. I am told now it will require 14 to 16 weeks to complete the work on the audio system. I cannot think of a time when we are going to have 14 to 16 weeks clear for construction in the chamber. In other words, the completion of the system, I am told, can never happen physically. My recommendation is we hire that group of Pentecostals which constructs entire churches, tabernacles and day care centres on a weekend. If we hired their expertise, perhaps they could build a new floor in the chamber.

17:20

Mr. Treleaven: The Mennonites put up a barn in a day.

Mr. Chairman: Somebody can do that. I have seen people do it. I do not know why it is impossible for that to happen here and I am growing increasingly frustrated by the process. I appreciate that they have different standards, that they work to different levels and that performance expectations are different; but I believe a new floor can be put in the chamber, the seating rearranged and a new audio system installed in somewhat less than 14 weeks. The reason I think that is I have watched work crews go in and set up overnight for a rock concert with 18 million miles of hard wire for a very expensive sound system. If we were to set it up for a rock concert, perhaps we could hire those people to come in and wire the chamber for the members. It might sound better.



Mr. Treleaven: Or a PC leadership convention. We can do it like that.

Mr. Chairman: These things happen. That is my frustration with the system. It is not that we have input; it is that the system loses track. That is a matter you may want to consider.

We also will have to consider at some time the relationship of staff to this committee. I am used to working with staff at different levels in different ways. I am not used to working with staff people who appear before the committee, give it a 40-minute lecture and 12 pounds of paper and ask it to make a decision. That is not my version of working with staff. During the fall session we will have to sort out the relationship with staff of the assembly, those who are working on televising the proceedings and things of that nature.

I have watched the relationship of the Board of Internal Economy with the staff; that is not my version of how staff relates to those charged with making decisions. One does not put the paper on the desk a moment before the decision is made. One provides background material and one advises, assists and tells how to do things. It seems to me we need to clarify that.

There are two final matters you will have to consider. I am a little reluctant to raise this with you, but several members of the assembly have raised a personnel matter with me. I do not want us to do that. I do not see it as our job to manage the process around here, but I must report I did ask staff of the assembly to attempt to deal with the matter. Frankly, I was not terribly happy with the reply I got, nor were some of the other members. They probably are going to insist on at least some vehicle whereby, if they think a member of the assembly staff is not being treated fairly, they have some way of expressing that. They are asking about, and we will be putting on our agenda, a personnel matter.

I do not think we need to go into the details of this today. I just want to make you aware that you will have before you shortly a request to deal with a personnel matter. I want you to think about whether you want to get into that whole field at all, or to what extent, and how we deal with it. As one member put it to me: "At the bottom of it is if something is not being handled properly with our own employees and I am going to be held responsible for that as a member of the assembly, I demand a vehicle whereby I can have my say on the matter. I am not content to leave it to various administrators to handle. If they are handling it properly and I have no objections to it, then there is no problem. But when a problem does occur, do I want to be accused that someone has to go to the Ontario Human Rights Commission to get something rectified? Is there not a way by which I can state I object to the way this is happening and at least voice my objection to it?" You will have that matter before you at some point.

Finally, on a more joyous note--

Mr. Treleaven: We are finally going to Australia.

Mr. Chairman: It is related to that.

Mr. Poirier: He said "joyous."

Mr. Chairman: Several members have brought to me proposals to go see things in other places; to do with renovations, rules, how decisions are made concerning members' services, and so on. Most of these would be things to

which you may want to have the entire committee go. However, it seems appropriate to me to give at least some consideration to the idea that a subcommittee of one, two or three members, may go for a short visit. They seem to be suggesting that if the whole committee does not want to go--and it is very expensive to take this whole group on the road--it may be worth while to send one member to a meeting, a conference or something such as that.

Mr. Treleaven: Excluding the chairman, always.

Mr. Chairman: Yes. I never want to go to a conference.

You may want to consider something such as that. The other problem we are running into in travel arrangements is that it is also very hard to find a period when 11 members of the assembly can travel anywhere.

We said last year that we were open to proposals from any members of the committee. One or two went to conferences on freedom of information and things such as that, and I believe that is an acceptable way to proceed. The way to proceed, though, is probably to think about it for a little while and put a motion on the books that authorizes a subcommittee or the chairman or someone to say it is okay or that some approval process is necessary, and the normal guidelines, in financial terms, would apply.

Something such as that may be under way, and two or three members of the committee have suggested people they have met and places they would like to go, such as state legislatures that have just completed a renovation program and have not done so entirely at public expense. Those are things we should consider.

Does anyone else have matters he would like to put on the committee's agenda this fall?

Mr. Warner: First, on that last thing you mentioned, maybe one thing to consider along with it is that when members go from this assembly to attend Commonwealth Parliamentary Association conferences, they are obliged to do a little report back to the Speaker on their return. That is probably a good practice. An individual member from here may attend a conference on freedom of information, as I think Mr. Sterling did, and he obviously has a good background in it. When we are doing Bill 34 at some point, it would be helpful to bring back a report so that other members of the committee can have the advantage of that person's work.

I have two items. One is that I would like to see us do a little review, not necessarily right away but some time before Christmas, of the television coverage in the House. I have had a bit of feedback from the public; maybe other members have had some already. We should have a showing of ideas on whether there are ways we could improve the coverage or changes we might make and so on. We could have a little discussion and maybe look at some excerpts. Most of us are in the House during question period, so we do not see the actual coverage. Maybe we could have a look at an excerpt of 20 minutes or something that the staff could give us and see whether we have some suggestions on that.

Mr. Chairman: I have had some preliminary discussions with the staff on it. We are having some technical problems. The system is not in place yet. I suggest that we leave them alone until they get their technical problems worked out.



For example, we will not get the automated cameras working until we have a new audio system. We will live with the fact that there is a time delay between a member being recognized and standing and the TV camera finding him, because it must be done manually now.

We continue to have problems with the other channels on the in-house service. They are trying to develop that as quickly as they can, but again, they have encountered technical problems. They have had engineers in this week working on it. A couple of simple problems have been brought to me. I think we have rectified them.

In rewiring the chamber they put in some additional facilities, but did not bother to explain to the press gallery, for example, how to utilize those microphone jacks. On the first day a guy was saying, "We cannot hear and we cannot tape off this." They had gone to some bother to provide them with somewhat better facilities, but they had not yet bothered to explain how to use them.

On the first day, in the best tradition, they wrote it out for members and put it on everybody's desk in front of his or her face. That is the best way I can think of to hide it. Absolutely no one read it. No one knew there were channels available on the little box underneath his nose that would give an audio in English or French.

Mr. Warner: Some of them did.

Mr. Chairman: They picked that up after a little while.

We are having some problems, and I suggest it would be wise to give them a little leeway, but it is part of our obligation to monitor the televising of the proceedings and to be aware of problems.

A couple of members have brought problems in from back home, where they say local stations are encountering some difficulty in receiving. If you will give those problems to me, to Tom Mitchinson or to Bill Somerville, we will try to get that. As far as we know, equipment is now in place so that almost any cable system of any size in Ontario can receive that feed. There is no valid technical reason not to. People may not know how to operate the machinery, but if it is a matter of a phone call from someone here to someone back in a cable system somewhere in Ontario, we can surely do that.

17:30

Mr. Warner: The other item is related to what you mentioned earlier on the members' services aspect of this committee's work. I understand that Mr. Mancini has a very clever idea. We may not have time to discuss it today, but if I have the idea straight, it sounds really good to me and I would like to pursue it.

Along those lines, if part of the name of the game is actually to have the building and all its ancillary services geared towards the members at first, if that is what we are trying to accomplish, it might not be a bad idea so to inform the members and to give them a list of the items we are looking at. If they have any comments or things they feel we have left off the list, complaints or a point of view, they should send them in to us. That way they get the idea that there is a dynamic at work and that we are attempting to deal with the question of security and services to members. Whether there is a problem with the cafeteria being too confined, food service, renovation of the



building, television coverage or anything else, there is a little group that is attempting to focus on all those issues, and the members should avail themselves of the opportunity to send us a note or to appear in person at one of our regular meetings. I guess we have been allotted Wednesday afternoon and Thursday morning.

Mr. Chairman: We do not have the Thursday morning by motion yet.

Mr. Warner: I thought that was on--

Mr. Chairman: I am told it is coming, but the motion has not been--

Mr. Warner: It is not actually on motion yet.

Mr. Chairman: Just finally, in thinking about a number of the matters I have raised today, it does not seem appropriate to me that the whole committee with a Hansard running is what is required here. What is required is that from time to time we make reports to the assembly on matters of security, for example, members' services or things such as that.

Let me give you a concrete example. I know that within my budget I can get this certain service. I made inquiries with staff of the assembly on how to acquire this service. I thought I had cleared it all. It has taken about six weeks to get to this point, and I find out today that this is not the case. The person who advised me is not there any more. The advice was wrong. We go back to square one. I am getting a little frustrated with this. I do not really need a whole committee of 11 members to do it, but I would really appreciate it if I could take my little problem to a subcommittee of this group or some other group and say, "Here is a problem."

I am not elected to come down here and fight with members of the staff of the assembly, but on the other hand, I do not think it is their job to tell me I cannot do it when it is clearly within my budget. There is ample precedent for doing it, and they cannot tell me which forms to fill out. Somebody has got to sort out something. It took me four months to hang six paintings. I do not think that is very productive.

Mr. Treleaven: You sound like a new member.

Mr. Chairman: Yes. If I were a new member, maybe I would take this a little less seriously. We are encountering a number of administrative problems around the building, and we will have to find a mechanism for resolving some of the problems.

Frankly, right now they are just not getting resolved, and more and more members, I am sad to report, are coming to me with these problems. When somebody orders office furniture and it never arrives, that is not a matter I really want to bring before the committee. But that member is getting very agitated about this just now, the explanations are not forthcoming or satisfying to the member and we cannot seem to resolve it. Somebody has to resolve some of these problems, and there appears to be a mountain of them.

Mr. Mancini: Mr. Chairman, I like your idea of a subcommittee very much. You are right. We are not elected to come down here and fight with staff, but our committee obligations, the way I understand them, are to ensure that members receive the services that have been approved by the Legislative Assembly, to the best of the staff's ability. If we do not avail ourselves of the services available and if this committee does not help members, then members really do not have anybody.

The House leaders are too busy. Our House leader is the minister for three portfolios as well as House leader, and he is busy. Your House leader has many obligations. The Conservative House leader is from out of town; he comes back and forth and he has a lot of obligations. These particular matters are our responsibility, whether we think we should spend time on them or not. The members have to have some group or some body with authority.

Mr. Chairman: The point is that when we get around to trying to resolve some of the these things, it may not be terribly appropriate to have the whole committee deal with all of this stuff. As long as there is someplace a member can take a beef and get something straightened out, that is what the member is concerned about. He does not want a report on whether his drapes have arrived; he wants the drapes to arrive. If we could assist in that process, it would help.

Mr. Warner: If we have a couple of minutes--and it is the last item, I take it--something to consider would be to have a subcommittee of one member from each caucus plus a chairman; that would be four members. I am just throwing this out for consideration. If you agreed to meet, say, every second Thursday morning. We are assuming we will get the motion that the committee is permitted, because it normally did sit on Thursday morning. It is a two-hour thing usually, from 10 until 12.

Mr. Mancini: The public accounts committee sits on Thursday morning. I sit on that committee.

Mr. Chairman: There is a scheduling problem.

Mr. Warner: Whatever it is. I am just saying that normally this committee would get one afternoon and one morning, a two-hour thing. If you said that every second week for a two-hour period in the morning would be the opportunity to deal with members' services in front of the subcommittee of four people, then that would not tie up 11 members; seven members would be freed from that responsibility. It does not necessarily have to be the same four people, but at least there would be a place to which members could come with their particular concerns related to services to members.

Mr. Chairman: My suggestion for you to think about, but not to do today, is to have the committee simply say, "We are going to report to the House that if a member has a problem with whatever, he should send it to this committee." You may want to strike a subcommittee to handle all of this stuff, and we will meet as we need to meet. I do not think there is a need to schedule a formal meeting at 10 o'clock every Thursday morning. If somebody has a problem, three or four people can gather someplace, hear both sides of the argument and say, "This is what is going to happen and that is it." If there is a big fuss, we will report it back through the committee and to the assembly and all of that.

Most of these are minor things; somebody needs to arbitrate a dispute. Something you may want to do is simply to split these responsibilities and say: "These three people will look after disputes between the members and staff and whatever. These three will look after the television stuff. These three will look after renovations." When they have something that is really important to do, we will make them come back through the committee, and the whole committee will discuss it.

However, for small matters, or to do ongoing work, they can meet at their pleasure and report to the committee from time to time. If it is

something of some substance, we will report to the assembly or to the Board of Internal Economy or whatever. The fact that there is no place to take these things is causing increasing numbers of problems.

Mr. Bossy: I just want to add something. We are talking about restructuring the jurisdiction. Once that is established, it is going to take an awful lot away from the committee, because if every member is aware that whatever his or her problem is, there is someone responsible to reply to it, because he has a job; he is being paid to reply, and why did you not get a certain item for which you have approval--

I do not think it needs to come back here, but someone has to be held accountable within the jurisdiction of this place. That would be from the Speaker down to the branches within that have jurisdiction of taking care of the different services. If you do not like the coffee, my God, you go to the person who is responsible for making the coffee.

Mr. Poirier: We will visit the plantation.

Mr. Bossy: I do not think a committee of the Legislature should be dealing with grievances as such, and that is how it sounds. In the beginning now, sure, because there is no identifiable area where you can go. I have had many problems already, including picture hanging that took six weeks or whatever.

Mr. Chairman: Any other business before the committee? We are adjourned until Wednesday of next week after question period.

The committee adjourned at 5:41 p.m.



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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY  
ORGANIZATION

WEDNESDAY, OCTOBER 29, 1986





STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Dean, G. H. (Wentworth PC)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Warner, D. W. (Scarborough-Ellesmere NDP)

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service





LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, October 29, 1986

The committee met at 3:18 p.m. in room 228.

ORGANIZATION

Mr. Chairman: In these proceedings, the first item and two others dealing with personnel matters, which I will make you aware of as we go along, are matters that perhaps we should deal with in camera.

The first item on the agenda deals with security, and I am not sure that it is appropriate to deal with security matters in public, although we may at some time decide to have a public discussion about that. The other two items I will raise with you are personnel matters, before we go on to a couple of pieces of correspondence and the draft of the premature disclosure report. This afternoon, we could begin with some preliminary deliberations around the first report.

If it pleases you, can I have a motion to go in camera?

Mr. Mancini moves that the committee go in camera to discuss the security matters on the agenda.

Motion agreed to.

The committee continued in camera at 3:20 p.m.

3:04 p.m.

Mr. Chairman: Let me begin by taking you through a couple of drafts that we asked John to put together at our last meeting, one to clarify the mandate of the committee and a second report on premature disclosure. You may recall we discussed this at a previous meeting. Looking around the room, I think I will hold off on the votes on the matters, but I will put them in your hands for today.

The first paper I draw to your attention is entitled Mandate of Committee, and essentially it tries to put into writing those matters that we discussed at our previous meeting, where there appears to be some need to clarify what the Board of Internal Economy does and what this committee does. It stems from the fact that we are observing now that it is a little silly to have this committee go through a process and arrive at conclusions and then send it to another committee where the same process takes place and no one appears to be doing a great deal of follow-up. Perhaps that matter can simply be tabled with you today, and we will deal with it, I hope fairly quickly, at our next meeting.

The next item is the draft report on premature disclosure. Again, I will put that in front of you today, and we will deal formally with motions at a later date. John has attempted to put together a draft report that discusses the proposals that were put to the committee at our previous meeting on what to do when there is a complaint about a premature disclosure. If I can turn your attention to pages 3 and 4, that is his attempt at drafting the





commendations. To take note that these things almost always come out of committee meetings that are held in camera restates that we think it is important, if you are going to be in camera, to hold it that way.

Second, when a member complains that something has been released prematurely, we have a problem. We have no means of gathering the evidence as to how it might have been released, who released it and all that. We are relying in this report that the first obligation is to refer that back to the committee where the problem occurred and to see if it can sort out whether by accident or by intent something untoward happened.

If you determine that there was something untoward, the agent you would then to ask to do a bit of investigation in that regard would be the Sergeant Arms. He may choose a variety of investigative techniques, and we are not stating that. We are putting a caution in the last recommendation that people could be a little more thoughtful about what needs to be done in camera. We will table that report today.

I also want to table with you a request from Tom Mitchinson on the use of the legislative channel by the Wawatay Native Communications Society. This is pretty close to being a recommendation coming through TVOntario. We do not have much of a process for establishing who could and who could not make use of the legislative channel. You may recall in our earlier reports that in setting up the system we did acknowledge that there would be additional time that could be used and we did not want to preclude that outside agencies would make use of it.

At that time, we rather thought that TVOntario might be the agency that would be using it directly and we made some accommodation for that. We now have a second request for it. Again, because of the lateness of the hour and other matters, I will simply have that tabled with the committee, and we can deal with it at our next meeting. Are there any other matters?

Mr. Eichmanis: That is it.

Mr. Chairman: Is there anything else that members want to consider today? If not, we will table three documents with the committee and put them on our agenda for next week. Just looking around the room, I take it members do not want to vote on any of those items today. If that is your pleasure and there is no further business, we stand adjourned until next week.

The committee adjourned at 5:09 p.m.



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

TELEVISION IN LEGISLATURE

PREMATURE DISCLOSURE OF COMMITTEE REPORT

COMMITTEE'S MANDATE

CONFLICT OF INTEREST

WEDNESDAY, NOVEMBER 5, 1986





STANDING COMMITTEE ON THE LEGISLATIVE-ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Dean, G. H. (Wentworth PC)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

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Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Warner, D. W. (Scarborough-Ellesmere NDP)

Substitution:

Hart, C. E. (York East L) for Mr. Morin

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

Witnesses:

From Wawatay Native Communications Society:

Angeconeb, G., Executive Director

Thunder, E., Director of Electronic Media

From the Legislative Assembly:

Mitchinson, T., Director of Information Services

From the Ontario Educational Communications Authority (TV Ontario):

Bonner, A., Manager, Ontario Policy Relations

MacGregor, A., Assistant Director, Operations

# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, November 5, 1986

The committee met at 3:22 p.m. in room 228.

### TELEVISION IN LEGISLATURE (continued)

Mr. Chairman: Good afternoon. We have some witnesses before the committee from the Wawatay Native Communications Society: Garnet Angeconebe and Elizabeth Thunder. We also have Allan Bonner, Alex MacGregor and Tom Mitchinson.

Please come up to the microphones where Hansard can pick you up. When you begin to speak, simply identify yourself so Hansard can follow the conversation.

The committee has had the background paper on the matter for a couple of weeks now. You will be aware that at the time of implementing the legislative television network, we did discuss the idea that we would be open to proposals for use of additional hours. I will start this afternoon by telling you that we do not have a real system for allocating this time and we have not devised one, so our first stumbling block may be that we do not have a process for you to go through yet.

I think it would be useful for you to go quickly through the proposal that you have. If your request is framed in a particular way, we can probably give you a positive response quickly. What we may not be able to do for you is to provide you with a ready answer that would allow you to go on the air next Monday night or something. However, to state the obvious, there is additional broadcast time available. We are very interested in utilizing to its utmost capacity the expensive equipment that we have. It would appear that your proposal is in line with what the committee discussed initially when we installed the system.

If you would like to take it from there and entertain some questions from committee members afterwards, we can proceed. Who is going to start this? Go right ahead.

### WAWATAY NATIVE COMMUNICATIONS SOCIETY

Mr. Angeconebe: My name is Garnet Angeconebe and I am the executive director for Wawatay Native Communications Society.

First, I would like to express our appreciation to this committee for allowing us the time to make our presentation and to let you know who we are and what we do.

If I may introduce the Wawatay Native Communications Society, it is an organization that has been in existence since the early 1970s in northern Ontario. We were incorporated in 1974 as Wawatay Native Communications Society. Our mandate at the time, and our mandate today, is to improve the communications of the Cree and Ojibway people living in an area called Nishnawbe-Aski, commonly referred to as the Treaty 9 area.

In that area we serve more than 35 communities over an area of 210,000 square miles. Back in the early 1970s, Wawatay was born because of a need to develop communications for the people in the north, and in those early days the Department of Communications introduced a high-frequency radio system that enabled communities to communicate back and forth. This was before the introduction of the modern telephone service as we know it today. The high-frequency radio system still remains an important part of communication services in the north. Today trappers, fishermen and hunters are able to communicate when they are out in total isolation in the wilderness, working and making a living from the land.

At the same time, in the early days of the 1970s, Wawatay started to print a newspaper called the Wawatay News. It is a monthly publication. It is something that we still publish. It is a trilingual newspaper: Cree, Ojibway and English. It is the only newspaper that people get in the remote north, and it is relevant because of the content and also because of the syllabics, which is the Indian form of writing that appears in the paper.

We have also been instrumental as a liaison body between the native communities and agencies such as Bell Canada or the Canadian Broadcasting Corp. and other communications authorities in the country. We have been a liaison where we have provided ongoing advice to the communities. As such, in the mid-1970s what we saw in northern Ontario was the development of CBC going into communities that had a population of 500 people or more, which are only about five communities out of the 35 in northern Ontario. What we saw there was the development of community radio stations whereby these five communities got access to local programming from the CBC.

Before that there was another community radio station that sort of paved the way to the community radio movement in northern Ontario, which was at Big Trout Lake. Around 1976, the other smaller communities that did not qualify for CBC services asked Wawatay to find an alternative community radio transmitter. We found a half-watt transmitter, which we used in the community of Muskrat Dam. That transmitter had the capability to transmit anywhere from a mile to three miles in a community, and that was adequate.

In 1976-77, the community radio movement mushroomed to the extent that in the north there are now 26 community radio stations. Community radio is very important in the north, and we have been quite involved in advising communities about community radio stations. If you want to see community radio in action, come to a northern native community in the Nishnawbe-Aski area.

In 1978, Wawatay participated in a satellite project of the Department of Communications, experimenting with the Hermes satellite. We connected three community radios along with Sioux Lookout, and it was an interactive community radio network that we had set up through the Hermes satellite. It was a short three-month experiment back in 1978.

When the experiment was over, the board of directors of Wawatay mandated the management of Wawatay to try to find a permanent system to connect all the radio stations into a unique native network. That was realized when the ministry, then the Ministry of Northern Affairs, and TVOntario extended services into the remote northern communities through Anik E. We were then able to negotiate with TVOntario and the provincial government to see whether Wawatay would be able to piggyback off the satellite distribution system. That became a reality in September 1984, when we officially opened the Wawatay radio network by using the TVOntario distribution system.



15:30

At present, we are broadcasting more than 20 hours of native-language radio into 26 communities and we have highly trained native broadcasters. The broadcasting is done in two languages, Cree and Ojibway. We have worked very hard to develop community radio to the extent of having a radio network.

More recently, we have been involved in developing a regional television network, again with the co-operation of TVOntario and the good working relationship we have with it. We are working towards distributing native-language television programming throughout the north.

The reason we are here today is to discuss the distribution of the native-language television network using the legislative channel and co-operation among all parties involved.

Our philosophy at Wawatay, as directed to us by our board of directors, is the enrichment and development of the Indian people's lives through communications. We believe in this very strongly. If I can illustrate our programming, whether it is television or radio, it is done in the native language. We do this because, as Indian and aboriginal people of this country, we see it as a way to preserve our languages and enhance our culture. If we do not do that, then we will be in a position to lose our language and our culture. Because we are aboriginal peoples of this country, if that situation ever happened, we as Indian people would have no other place to go to regain our culture and languages. It is very important that we use every possible means and resource available to us to live by the philosophies set out by our elders and the board of directors of our organization.

As I mentioned, we are here to talk about fulfilling our philosophies and our mandates as an organization through the co-operation of TVOntario, the Ontario government and others who may be involved in the process.

With that, I would like to introduce my colleague, Liz Thunder, who is here to explain our position and what we want to talk about in regard to the Ontario legislative channel.

Ms. Thunder: When we talked to TVOntario about using its system to distribute our native-language programming, we decided it could be done on a local pre-emption basis. We would pre-empt its programming in our native communities. Then some time during the discussion this past spring, we heard that the Ontario Legislative Assembly was looking at plans to extend its service to cover all of Ontario, including the remote communities, through low-power rebroadcast transmitters.

Then when I met with Tom Mitchinson here this past summer, we realized that the LPRTs would not be feasible or would not go into the north until possibly next summer, next fall or whenever. What we need right now and what would be beneficial to us is the use of the OLA's uplink to send our programming to Anik E, as well as OLA's transponder to get our programming into the communities.

We are just completing a training program. We hope to have our first show ready in November and to have a start on-air date of January 18 to send our first programming through. If we cannot get permission to use the OLA uplink and transponder, we will have to become an occasional user. In view of the amount of programming we want to do, it will cost us quite a few thousand dollars to become an occasional user, money that would come out of our operating budget from the Secretary of State of Canada.

We need some indication that this is feasible and that we will be able to use your uplink and transponder. Other than that, the affiliation agreement that we will be signing with TVO has just about been finalized; more or less, we just need to put the signatures on the agreement. Wawatay is submitting a licence application to the Canadian Radio-television and Telecommunications Commission for the new television network. As well, we have a licence for our radio network, which proves that we are broadcasters in good faith and that we follow all the CRTC rules and regulations of broadcasting. We are a very responsible organization. The work we do is for our people.

Basically, unless Alex, Allan or Tom can add anything to that, that is what we are looking at.

Mr. Chairman: Can one of you give us a bit of an outline on how much programming you want to do, at least initially, and when?

Ms. Thunder: Our plans are to do half an hour every week. For the local pre-emption, we finalized the time of Sunday afternoons, 5 p.m. eastern. Because we have two time zones in our area, it would be shown at 4 p.m. central. It would be half an hour for the first year, with the inclusion of room to do special programming--for example, an hour show six times per year if there is something special going on up north, such as the Muddy Water Music Festival or the big elders' conference that they hold at Muskrat Dam. Those will all be mentioned in the agreement we have with TVOntario.

Mr. Chairman: Specifically, you would like to use it on Sunday from five until 5:30 p.m. or something such as that?

Ms. Thunder: Yes.

Mr. Chairman: Can you outline for us why Sunday and why that time period?

Ms. Thunder: Basically, since we were going with TVO for the local pre-emption to use its equipment in the communities, that is when it airs French-language programming. We have nothing against French-language programming except that our people in the communities cannot understand it.

Mr. Chairman: They do not speak French.

Ms. Thunder: We felt that Sunday would be a good day to show the program. The 5 p.m. time slot is a good time. It is when people are just getting home from church and having their dinner. Most families will be at home around that time. On the basis of the audience surveys we have conducted in the past, that time, the supper hour, is good on any given weekday.

Mr. Chairman: Tom, can you fill us in a little bit on what this means to us?

Mr. Mitchinson: Yes. In order to carry the legislative broadcast, we have a full-time transponder, 24 hours a day, seven days a week. It is for our use during those periods for a fixed fee. It is not dependent on numbers of hours of use. There is no financial implication with this proposal at all. We are paying the same whether Wawatay is using it for an hour on Sunday or whether it is sitting unused on Sunday.

We have no intention of programming anything ourselves on Sunday for the foreseeable future. I would like the committee to understand that there are no operational factors inhibiting us from doing this.



Mr. Chairman: Is any staff time required?

Mr. Mitchinson: No staff time is required. As a unit, during our discussions with Elizabeth, Garnet and Allan, we were universally quite pleased to support the request.

15:40

Mr. Chairman: I take it the request is here, supported by TVOntario and our own staff, and that the cost on the item is nil. That is the way we like to see them, folks. Keep them coming.

Are there any questions from committee members? For those who were not on the committee when we went through the initial deliberations, we established that we would have satellite time available for groups in Ontario. What we do not have is a fixed process. At that time, we thought it would be appropriate that if groups wanted to make use of the facility, we would screen them through an agency such as TVOntario and subsequently ask our staff to give us a report on the cost of items and whether any dislocation would be involved.

At this time, the only thing on that facility is really the Legislative Assembly operating on a five-day week, not a 24-hour day broadcast schedule. Therefore, the proposal would have no impact on our existing broadcast schedule and has no cost implications. It has followed roughly the outline we put in place for approval of such things. If there are questions, we can go to them.

Mr. Warner: The process is running right by the book. This is what we had anticipated. The proposal sounds like a very creative use of the channel. I agree that language is the key to culture and that if you lose the language, you lose the culture. That would be painful. From my perspective, that would be the final insult we could deliver. Whatever can be done to retain the language has to be done. The proposal is obviously an agreeable one; it is certainly agreeable to me. If there is some way to expand what you are doing as you develop this, all the better, because it is extremely important.

Ms. Hart: I would have a lot of difficulty speaking against this proposal. It is not often we get proposals that come to us that sound so healthy for the community and so cost-efficient, if I might put it that way.

Mr. Chairman: It is one of the most cost-effective proposals we have seen.

Ms. Hart: I too will be happy to support the programming request.

Mr. Dean: Same here. I am personally very supportive of anything that can help preserve any of our multicultural strains, particularly in the case of the aboriginal peoples. If it will not strain any budget, that is even better. Even if it were to strain it some, I would want to investigate to see what ways could be found to make it possible. I would vote for it with both hands, I am sure. I know my party would do so, although I cannot speak for Mr. Villeneuve.

Mr. Newman: I am very pleased to hear the concern you people have and that you are interested enough to do something about this. It speaks well



for your group and I wish you all the best in the world. We will certainly co-operate with you.

Mr. Villeneuve: I have one short question. This will be going on primarily on Sundays in the time slot when TVOntario goes to the French language. Do you have any people who speak French within earshot of where you will be telecasting?

Mr. Angeconeb: As far as we know, we do not. There may be some people in the community who are outsiders who come in 10 months of the year. I talk about teachers and nurses. For the most part, the populations in our communities are probably 95 per cent native.

Mr. Villeneuve: You do not foresee replacing it as a problem.

Mr. Angeconeb: We do not; none whatsoever.

Mr. Chairman: Besides, is not the rest of TVOntario's programming on Sunday in the French language?

Mr. Villeneuve: I believe it is, on Sunday afternoon anyway.

Mr. Mitchinson: One thing I can add that may, in the long term, address that concern is that when the legislative channel is extended into the Wawatay community, our channel would be available for them to use on a Sunday afternoon, rather than pre-empting TVOntario. Whenever we have our installation completed there, it will alleviate that concern.

Mr. Villeneuve: All right. I believe that satisfies my only question. Thank you and the best of luck to you.

Mr. Chairman: I take it since everybody is on side, we will not have any trouble getting a motion through the committee to approve the use of the Legislative Assembly channel from five to 5:30 p.m. on Sunday beginning January 18, 1987, for the purposes of the Wawatay Native Communications Society. I have a motion over here. Everyone in favour?

Mr. Bonner: We need a few minutes on either side of it to warm the transponder, as it were. That is not the technical way to express it, but if it were from exactly five to exactly 5:30 p.m., I believe--

Mr. Chairman: What time frame do you want?

Mr. Bonner: This is Alex MacGregor from TVO.

Mr. MacGregor: Garnet was asking for an hour at some point, so maybe five to approximately 6 p.m. would be--

Mr. Chairman: We can word the motion so that it says the program goes from five to 5:30 p.m. with appropriate warm-up time made available from 4:45 until 6 p.m., or whatever is necessary. At the appropriate time, the program itself would go from five to 5:30 p.m.

Mr. Mitchinson: The right technical word is the transponder, not the channel.

Mr. Chairman: The transponder. I always want to get the right

technical word. That is the motion. Those in favour. Any opposed? The motion carries unanimously.

Motion agreed to.

Mr. Dean: I have a question to make sure I do not continue to be as ignorant as I am.

Mr. Chairman: You have it.

Mr. Dean: What is a transponder?

Mr. MacGregor: It is part of the satellite. It is part of the part that flies.

Mr. Chairman: It is the big bird up there.

Mr. Warner: Look out the window.

Mr. Chairman: If there are to be further proposals, I recommend, Mr. Mitchinson, that at some point in the near future you write a little process for us. The committee is generally in agreement that we would like these to go through TVOntario for its comments at least, and we would like to see staff comments here in regard to any dislocation to the system itself, or cost, or staff time or whatever. Then just bring it in. This is the process we understand the committee discussed previously. Maybe it should be formalized a little. Okay. Do you have what you want? Good luck to you.

Mr. Angeconeb: Thank you very much.

#### PREMATURE DISCLOSURE OF COMMITTEE REPORT

Mr. Chairman: There are a couple of other items. For those who may have just joined us this week, I am trying to clear the agenda so we can have clear sailing on the Aird report beginning later today and for the foreseeable future. I have a copy of a brief.

The first I will take is called the Report on the Premature Disclosure of the Draft Report of the Select Committee on Energy. To refresh memories, this goes back to the old problem of leaking reports, the last of which was a draft report of the select committee on energy. The committee discussed this and came up with suggestions as to how we might proceed in the future with these matters. Mr. Eichmanis has drafted this report in the light of those discussions. I will go to page 3 where it deals with the conclusions and our recommendations.

The first point makes the case that there are continuing problems with disclosure of reports, particularly when they are discussed in camera. The second point is that we see our job as being to recommend disciplinary action if it is necessary, but it is rather difficult for us because it is hard to gather available evidence.

The third point states that in the first place, from now on the committee in question from which reports have been disclosed prematurely should attempt to ascertain the facts. They are probably in a better position to do that than we are. Second, if there is to be any investigation of any nature, it will be done under the jurisdiction of the Sergeant at Arms. He will present his report to the committee and it will determine whether there

is enough information there for anybody to make a judgement. Then the chairman of the committee will ask that it be referred here.

We also note that to avoid this, the committee should be a little more judicious in meeting in camera, as many of those items do not appear to be matters of personnel, security, land acquisition or the normal process. Perhaps part of the problem is that committees are meeting in camera when they should be meeting in public.

In a nutshell, that is the report on how to deal with these matters that we discussed on a previous occasion. A motion to adopt the report and forward it to the Legislature would be in order. You may want to have some further discussion, but we have discussed it on two other occasions and it may be in line.

15:50

Mr. Warner: We went through this thing and the conclusions and recommendations are almost verbatim what we discussed at the previous committee meeting. I am quite comfortable with it.

The last point, point 5, is probably one of the best defence mechanisms for members to avoid having this premature disclosure call. Although we table it in the House, is it appropriate that these conclusions and recommendations be forwarded to each chairperson of the various committees?

Mr. Chairman: We will forward it to every member.

Mr. Warner: Yes, but--

Mr. Chairman: I know what you mean.

Mr. Warner: You know how few of them would read it. Perhaps at some point the chairpersons of these committees will take it upon themselves to bring it to the attention of the committees when they are sitting. All this good stuff does not mean a whole lot unless other committees take it seriously.

Mr. Chairman: Agreed.

Mr. Warner: Other than that, I am pleased to support it.

Mr. Chairman: Is there any further discussion on the report?

Mr. Warner moves adoption of the report.

Motion agreed to.

#### COMMITTEE'S MANDATE

Mr. Chairman: At a previous meeting, we discussed the mandate of the committee. John Eichmanis has prepared a draft to try to sort out the roles of different committees. We are encountering a little difficulty, for example, between what we are charged with doing and what the Board of Internal Economy is charged with doing. We had several matters on our agenda last week that previously would have been dealt with by the standing committee on members' services, but that committee no longer exists and is considered to be part of ours.



With this one, you may want to report to the assembly on it and you may want to table this report for the information of the assembly. For practical purposes, we will need to enter into some discussions with the Board of Internal Economy. I am sorting out who gets what business and what the roles are. Similar discussions are taking place at the board. They are also finding some areas that kind of fall between the cracks. There needs to be an awareness to sort it out and to let one of the committees have jurisdiction to deal with the matter.

For example, the process on establishing the televising of proceedings was initially brought to our attention. We went through a rather lengthy process of determining how it should be done and tabled our report. The Board of Internal Economy subsequently went through virtually the same process again. It occurred to some of us that while it is good to have the process be thorough, there may not be a need for two committees of the House to go through it quite as thoroughly. It might assist us if the jurisdictional lines were cleaned up a little bit.

Is there any discussion on this? Perhaps you can give me some indication of how you would like to proceed. Let me lay out the options. The simplest way probably is to adopt it as a report and table it in the Legislature. Subsequently, there needs to be some meetings or discussions with the board and perhaps with one or two other committees.

Mr. Warner: I am trying to remember. When we discussed this before, did we talk about this committee's role with respect to what used to be called the standing committee on members' services?

Mr. Chairman: Yes.

Mr. Warner: Is that included in this?

Mr. Chairman: It is in the sense that John tried to pick out of the standing orders the responsibilities that are clearly outlined. It is clear that this committee, from its previous report in recommending a committee on the Legislative Assembly, said we will roll what is now done by the members' services committee into this one. We have assumed that role. We have not been particularly active in it, but it is clearly part of the mandate of this committee.

To confuse people even further, it is also clearly part of the Board of Internal Economy but both committees seem to be doing the day-by-day administrative work. To be blunt about it, there is not a great deal of follow-up on decisions made in either committee. It is a small point. To state the obvious, there is a need to do some organizational work around the assembly. There may be changes in the Legislative Assembly Act as early as this fall that will clarify the jurisdiction of the Speaker and bring a great many things under his jurisdiction that are not there now. In advance of that happening, there needs to be a look at the organization of committees and the organization of the Office of the Assembly. This is probably the first step in that process.

Mr. Warner: Perhaps the best thing to do is to table this thing and at some point to have a little chat with the Board of Internal Economy so that it is aware of this. We can have some discussion at least between our chairman and the board. At some point someone has to rationalize this process. It is bizarre what happens around here. Aside from the whole question about whether the building will actually belong to the members at some point, if that is

going to happen, we assume, or hope, that it will be a first. In the meantime, we can at least rationalize the decision-making process and determine what this committee is responsible for and what it can and cannot do. That involves having a chat with the board to try to avoid duplication.

If we table the report and make sure copies are sent very specifically to the Treasurer (Mr. Nixon) and at some point have a little chat with him--he is not on the board; I am sorry.

Mr. Chairman: I suggest that if you want to entertain motions now, the motion is to adopt the report and forward it to the Legislature for adoption. That will give me the piece of paper that will allow me to go and meet with the board. It will likely come about in a new Legislative Assembly Act, which is being drafted. It could also come about in changes to the standing orders, which we will have to do, probably before the end of the session. I think the report has to be tabled by December 18.

Clerk of the Committee: It would have to be tabled and adopted.

Mr. Chairman: Yes, by December 18. That is on our agenda as well. I suggest a motion to adopt the report and forward it to the Legislature for adoption is in order. We probably do not need a motion to instruct me. I will take it upon myself to meet with the board.

Mr. Newman moves that we adopt the report and forward it to the Legislature for adoption.

Is there any discussion on the motion? All those in favour? All those opposed?

Motion agreed to.

Mr. Chairman: I should report that we have had a response from the Speaker. I will circulate the letter from the Speaker. You may recall at our last meeting, when we entertained some discussion about the security provisions around the building, we asked to have the Speaker, the Sergeant at Arms, the security people, a member from each caucus and the chairman sit down informally at what we laughingly refer to as a securities committee.

The purpose of the exercise is not to take unto themselves the security of the building but simply to advise the Ontario Provincial Police, officers of the Ministry of Government Services, the Speaker and everybody of some problems that have been brought to our attention. It is meant to be an advisory committee, not a supervisory committee. The Speaker has replied that he received our letter in that regard and is pleased to accept the suggestion and will host the first meeting. We now will provide you with copies of that.

#### CONFLICT OF INTEREST

Mr. Chairman: You may recall that at a previous meeting we discussed that the Aird report would be the first priority of the committee. I am pleased to tell you that we now are at the stage where we can begin that. In preparation for it, we had Merike Madisso and John Eichmanis go through the report to summarize the recommendations.

They are here. You have had a copy of the report for some time. It might be useful to take a preliminary round of discussions on it today. I am not suggesting that it would be appropriate to take any motions today. We would



all like to move quickly on the matter, but we want to make sure everyone has had a reasonable amount of notice. I do not think it would be appropriate to start moving motions and things such as that, but an initial round of discussions would assist John, Merike and others to begin drafting a report.

16:00

I caution you that there are some requests on the part of the government and, I think it is reasonable to say, on the part of all members, to deal with the matter in a relatively short time. I do not want to rush you into motions today. However, I caution you that I do not think anyone in the assembly wants us to deliberate for the next five years on this matter. It is something you can do if you choose to do so, but I think they are expecting that the government will provide legislation on conflict of interest in the fall session.

It would behoove us to expedite the response to the Aird report as quickly as possible. Therefore, I would be very happy to entertain a very general discussion today. By next week's meeting, I expect we may well want to get into the drafting of the recommendation. I put everyone on notice that if you have a particular point of view or any motions you want to put, you should start to get them ready. With those few words, are there any initial discussions that you want to get into?

Mr. Warner: I am in your hands on this, but I thought it might be appropriate to mention this before we got into a discussion. I have a motion I would like to table on a different matter. It is not for debate today, but I would like to serve notice and issue a motion for debate next week, to be taken off the table next week. Is that acceptable?

Mr. Chairman: I do not think anyone has a problem with a notice of motion.

Mr. Warner: I move that this committee express to the government its dismay at the government's response to the committee's report on appointments in the public sector. The committee is deeply disturbed that the government is not honouring its commitment to "changes in the system of recruitment and selection of public appointees."

The government's response to the committee's report seriously undermines the committee's process of consensus building. The government's response indicates a lack of political will to bring about meaningful change to the old patronage system.

I simply wish to table that with the committee today. When we meet next week, we can entertain some discussion and deal with the motion at that time.

Mr. Chairman: Let us accept that as a motion for today for discussion next week. There would be one small wording amendment that you might take as a friendly amendment. The response we have received so far is a response under standing order 32(d), which is in the provisional standing orders. It is a request that the government respond within 120 days. It is not like an official government response, and we do not have a ministerial statement. However, we do have a written reply to the committee's report under that standing order. If you want it as a friendly amendment, we can take it today. If not, we can leave it until next week.

Mr. Warner: That is fine. I want the appropriate--



Mr. Chairman: We will make that slight wording change. We will insert the words, "under standing order, 32(d)."

Are there any initial comments on the Aird report? John, do you want to go through it quickly?

Let me start the discussion by simply saying that the Aird report is in two or three phases. One is a general discussion of conflict-of-interest legislation, guidelines and provisions as we now know them. There is not a great deal about other jurisdictions, but there is some mention of that. There is a bit of an assessment in the Aird report itself on whether people conform to the existing guidelines. Finally, there is a draft piece of legislation attached to the Aird report itself. I would like to go through what I personally see as being the critical points. There are probably not more than four or five.

The first one is the disclosure provisions under anybody's guidelines or law and how widely they go.

The second is probably something we will have to discuss among ourselves. The recommendations in the Aird report were a direct response to the Premier's (Mr. Peterson) request to have Mr. Aird look at his current set of guidelines. Those guidelines are not part of the law or part of the standing orders and they deal virtually only with the cabinet. The first level of consideration is, is it only the cabinet that might be subject to conflict of interest? Most jurisdictions have said no to that question. All members of anybody's assembly can have conflicts. The conflicts may be heightened somewhat or sharpened by assuming a position in the cabinet, but by and large, when other jurisdictions have written legislation on conflict of interest, they have included all members. There is that matter to be considered.

Some difficulty will be encountered in going through definitions and inclusions, to quote the obvious example. If one advocates disclosure of financial assets, income and things of that nature, which most jurisdictions include, one of the problems is who has to disclose. It is not difficult to see that the pattern is all members, but there is difficulty when spouses are included. How is it defined? How wide does it go? How are dependents or children of spouses defined? How does one get around the provisions of taking assets and putting them in the name of someone else in the family or of a partner or something of that nature? Those would probably be thornier issues.

In our deliberations on the Fontaine conflict-of-interest matter, discussion ensued on whether total divesting may in some circumstances be appropriate. Those of us who have looked at different fields know this is not quite as simple as it appears to be at first blush. One may repeat the oft repeated phrase we used in our hearings that the Minister of Northern Development and Mines probably should not have shares in mining companies. However, definitions need to be drawn a little more closely. As well, if the sitting member happens to run the only garage in a constituency--that is not uncommon, at least in a community--and someone needs to get his truck fixed, maybe the only place to do it is at that garage. Should the person have to get rid of the garage, which may mean closing it down in some cases? That area will have to be looked at. The committee members will make their own decisions about where lines should be drawn.

There are a couple of other matters I will draw to your attention now. How public should this process be? Some jurisdictions say there should be complete disclosure. They are tabled with the clerk and are held by the clerk

or some other agent of the assembly. In most American jurisdictions there is automatic and complete disclosure. Public documents are filed at a public source.

To categorize, in many jurisdictions they now feel, to get away from the divesting argument, that a complete disclosure should be made, and the public or anybody else can draw its own conclusions about whether there is a conflict. What is important is that assets and sources of income are made a matter of public record and that is the end of it. If people want to claim there is a conflict, the basis upon which such a judgement can be made is provided, but no one is required to get rid of everything he or his family ever owned. That is one approach to it.

16:10

The second major area involves which agency corporately could see that all your papers and documents are filed and advise members and ministers on how to do all this. Should that same agency be responsible for investigating any claims of conflict? What role does the assembly play in this? How do you go about the mechanics of it?

The Aird report points out that we already have a Commission on Election Contributions and Expenses, which does work of a similar nature. It could be utilized to advise people on how to file documents, how the documents should look and, if you accept the concept of a blind trust, how somebody might monitor it.

There is also a recommendation that says there would be some august person and a relatively small staff who would do similar things. One of the difficulties I find in the Aird report is that if there is not a separation of those two things, we will have some problems. If the person who advises ministers of the crown and members on how to prepare the disclosure forms is the same person who later is supposed to monitor them and see that they are done properly, that in itself is a conflict. If a group of folks says, "Do this, this and this," and a year from now that same group of folks comes around and says, "That is not enough," it is criticizing itself. That is unlikely to happen.

You should give some consideration to how you might draw those distinctions and what kind of separation you want. Do you want a relationship with the assembly? Would an agency such as the election expenses commission tell you how to fill out the forms, gather them up and deposit them with the Clerk? Then a year from now, another small, august body of people examines those or examines them as they are filed or examines allegations of conflict at a later time. Do they decide whether a conflict existed, or do they draft a report that is tabled in the assembly and then referred to the committee? Do they do an initial examination and put it off to a judge? What is practical? What is desirable?

It should not be part of our deliberations, but I find it difficult. I guess this is heresy in the judicial world, but frankly, I am appalled that the Stevens inquiry is rolling towards the \$3-million mark and that a minister of the crown has now received \$350,000 in the form of legal aid. That is considered to be okay and no questions are asked. In our committee, we really did it on the cheap. We had no legal fees, so to speak. In the standing committee on public accounts, I believe the legal fees for Mr. Bell ran upwards of \$100,000. The process you set up has some financial ramifications, whether you think that is appropriate for consideration or not.



The other thing we have to think about is, what works? Does the Stevens inquiry work any better than what we did? Does the addition of legal advice, legal counsel, work any better? If you provide legal counsel for the government committee that is investigating in the hearing process, do you have an obligation to provide legal advice to the person accused? How does one handle these problems?

The Aird report goes into definitions a lot. I heard some news reports that said the Aird report dismissed the use of blind trusts. My reading of it is that it did not dismiss them. It said that that is a reasonable way to proceed, but you need to clarify what you mean by a blind trust, how it would be administered, who would monitor it, who would be in charge of it, what would be acceptable under the use of a blind trust and what would not be. Those are the things you have to take a look at.

How do you define holdings? How do you define a conflict of interest? Is there a need to draw the larger picture, or are we content to say there is a technical breach? Do any of us really care about technical breaches? Do we really care about real and perceived conflicts between members, members of the cabinet and the public? Is the larger question more important?

In a nutshell, that is what you can find in the Aird report. Staff have drafted a synopsis of the Aird report that probably should be included as a forward in anything we do. We have to get to the important principles quickly and get them in front of the Legislature. Then we anticipate that the government would respond with legislation.

Here is one other thing that had occurred to me. If we are putting our comments on the Aird report--and I do not think we need to reinvent the wheel here--I think we would solve some problems for ourselves if we made the request that the conflict-of-interest legislation come back here, too, so that there is a little continuity.

The reason we have the Aird report is that we held one of the conflict hearings this summer. It seems logical that one of the two committees of the assembly that did that would put the response to the Aird report in. But it also seems logical to me that, to get some continuity in here, the same committee ought to receive the conflict-of-interest legislation when it is presented and proceed with public hearings and things like that. In other words, whereas normally I might advocate that we now have a set of public hearings on the Aird report, I think it is quite reasonable to forego that if we have some assurance that we will get the legislation and we will provide an opportunity then to do it.

Those are my initial comments on it. I would be interested in hearing any other comments that members have. John wants to get his oar in and then we will just go around the room.

Mr. Eichmanis: When I was thinking this over and looking at the various other pieces of legislation across the country, it seemed to me there was a significant difference between what the Aird report recommended and what other Legislatures have done. The whole thing hinges on the compliance commissioner.

I can explain. If there is no compliance commissioner to deal with all these questions, you have what you have in the other jurisdictions: namely, you have to go into great detail about what you can or cannot do. Then it is up to the individual member or cabinet minister to decipher the meaning of



that legislation and what the individual provisions are. Of course, members or cabinet ministers can have different interpretations, as lawyers can have different interpretations.

The advantage of the Aird report recommending a compliance commissioner is that you would have one body that would be the authority on the whole question of whether the individual member or cabinet minister did or did not comply. I think there is a certain advantage in having a compliance commissioner to perform that function instead of placing the onus on the individual member to decipher the meaning of legislation. There is a great deal of advantage to having a compliance commissioner who will do that for you. As a result, it may be that there is not as great a need to make all the detailed kinds of provisions you would have in some of this other legislation if the compliance commissioner is there to go over what your assets, liabilities and so on are and to make a recommendation to you about how you should resolve those problems.

It would relieve the committee, if you like, of having to make detailed recommendations about at what percentage point you have to get rid of shares and all the various other combinations of things a member might be involved in. As I indicated, there are certain advantages to having a compliance commissioner incorporated into the act instead of going at it the other way of having very detailed legislation where each member and each cabinet minister has to interpret for himself or herself what that means.

Mr. Warner: John, I want to be clear on what we have in front of us. You simply did a summary of the Aird report. Is that right?

Mr. Eichmanis: That is correct.

Mr. Warner: Have you taken a look in any detailed way at what they do in other provinces?

Mr. Chairman: Yes.

Mr. Eichmanis: Yes.

Mr. Warner: And you looked at Quebec?

Mr. Eichmanis: Yes. They have somebody called a juriconsulte, which I guess is an English translation of a French concept, who advises the members on their particular situation.

Mr. Warner: From your understanding of it, is that juriconsulte similar to what you were suggesting as the concept of commissioner?

Mr. Eichmanis: I think the compliance commissioner goes a lot further, since he would become the trustee for any blind trusts while the juriconsulte does not. He only advises you in Quebec as to--

16:20

Mr. Chairman: To draw the parallel, Mr. Aird is saying in his report that a group such as the Commission on Election Contributions and Expenses can provide all kinds of advice on how to fill out forms and so on. The role of the commissioner is, first, to say that everybody has complied with it and, second, to hear complaints and to do examinations and reports on whether there is a conflict of interest.

I may be speaking out of turn here, but there was a consensus in the committee that we did not want to go through the process we went through this summer ever again. We wanted a mechanism that would say everybody had complied. The obligation on the part of the outside source is to say: "Boom. There is the stamp of approval. The compliance has been met." If there was a question raised, we wanted a source group to do the initial examination and say: "Yes, there was a violation of the law or the guidelines. Here is what I found."

Members of the assembly were most uncomfortable in going through all the filing of documents, the examination of papers and all the hints and innuendoes. We were not particularly well equipped to do that kind of examination either. It may be something better done by an outside agency. The best way to say it is that we have reserved judgement on the question of whether, once the information has been gathered, there should be judgement by a judge in a court or by a group of the member's peers in an assembly committee. That question remains unresolved.

Mr. Warner: As we tackle this, one of the things I am wondering about is that the Aird report directs itself towards financial concerns, individual holdings and so on, which may be seen as a conflict of interest. Are we also concerned about declaring a conflict of interest where it is not obvious that there is a direct financial benefit?

To be specific, I was not alone--this is confession time--I and at least 20 other members of the assembly who are still teachers voted on the bill the government brought in last June or whenever it was that amended the Teachers' Superannuation Act. There is a particular conflict of interest there. In this assembly, we have never had a member declare, "I cannot vote on this matter because there is a conflict of interest."

Mr. Chairman: It has been done, but it is rare. There is only one provision in standing orders, standing order 23, which allows a member to stand up and say, in essence, "The reason I am not voting is that I have a conflict of interest."

Mr. Warner: Right.

Mr. Mancini: That benefit is available to every teacher in the province. It is not just available to you.

Mr. Warner: But I am voting on it.

Mr. Mancini: But it is not something for David Warner and four or five others. It is not special legislation for a small select group. It is general legislation applicable to thousands of people across the province. That is like saying a farmer cannot vote on tile drainage legislation or a lawyer cannot vote on anything.

Mr. Warner: That is why I raised the question. Should we address ourselves to it?

Mr. Mancini: If there is legislation going through the House that says we are going to fund companies that make hubcaps and your wife owns 50 per cent of the only company in Ontario making hubcaps--

Mr. Warner: Then it is different.

Mr. Mancini: --then it is different, but we are talking about general legislation available for everybody.

Mr. Chairman: You are fishing around the fact, David, that in the guidelines as they have been interpreted--both sets that we know of and testimony that was brought before the committee by Blenus Wright and others--there was the thing that was categorized as the Ontario health insurance plan provision: if legislation is general out there for everybody, it is not a conflict of interest. My own feeling is that should be clarified. Whether we make a direct recommendation or not, we should note in passing that a multitude of conflicts arise from day to day in which there is no direct pecuniary interest, but people could say there is.

The other thing I caution you on is the municipal conflict-of-interest law. It is now stated that those provisions are being misused by some members of councils who do not want to vote on a particular matter. They are saying an item is too hot and they live close to it, so they do not want to vote on it. That is a perversion of the law. I have even heard of some examples where people bought a share in a company to get out of voting on a particular issue at a municipal council. We may want to take note of that routine as well.

On the one you noted, Mr. Warner, I would point out that for some of us that was general legislation having to do with teachers' pensions. We may have had a conflict in being former teachers, but there were some members of the assembly who directly received an increase in their teacher's pension because of that change. That comes a little closer to the mark.

Mr. Treleaven: May I take it a little further? In the House right now, they are talking about changing from the seven-year to the five-year average for teachers. Let us define it. I follow the OHIP thing, the farmers and the teachers. If you keep refining it, you get down to all teachers who retired between the years X and Y. Where do these subdivisions begin? We could find several of you ex-teachers who retired between those years, and you are dead on.

Mr. Mancini: Before we get too carried away trying to create areas where we can find ourselves in conflict of interest, we have to understand that conflict-of-interest legislation, after we agree on what it should be, has to be such that members, and ministers in particular--I am not really worried about members--will not be able to use information and/or the prestige and influence of a public office to benefit them directly in some way that cannot be seen by the general public but that is underneath the surface.

The stuff we are talking about is in open debate in the Legislative Assembly. The press gallery is there; we are there; we are all looking at each other. The debate we have created about how fine we are going to make this line is specious. I do not think we should be going into that area, because we will end up like the municipal politicians.

Mr. Warner: I do not disagree with you, but I think Mr. Breaugh's point is well taken. Perhaps the best thing is to clarify and have some definition of what is meant by conflict of interest to deal with those matters.

What Mr. Treleaven raises is very real. We are using teachers as an example, because there happens to be 21 of them from all three parties in the assembly. Not all, but some of the 21 still have contracts with school boards, where they have been on leaves of absence. To all intents and purposes, they are still employed, although not receiving a salary, by a school board. If the



legislation that you say is being debated right now goes through and the average is lowered from seven years to five years, and if I vote on that and have a contract with the school board, I will personally benefit.

Your point is that it is not only available to me, but also to many other people. However, if enough of us band together to make sure the legislation goes through, we are doing so in the interest of a lot of other folks, but we are also doing it in our own interest. I am not sure how you ferret that out in legislation. Perhaps the best way is the chairman's suggestion. You simply clarify the definition; you do not take the next step and lump in certain situations.

16:30

Mr. Chairman: Much of what Aird says in his report is that in his concept of the commissioner, the Legislature would draw the broad definitions and the commissioner would draw the specific, "You are over the line on this one." The commissioner would have considerably more powers under that concept than we have seen in other jurisdictions.

Another vexing problem has been raised by one of our members in the assembly by means of a private member's bill. We have a resolution related to that this week. There is one occasion which happens once in a while where, without doubt, there is a direct pecuniary interest on the part of each and every member of the assembly: You vote yourselves a pay raise.

If we take the conflict-of-interest guidelines, where it says you cannot vote--

Mr. Mancini: I do not think we will vote it down, by any stretch of the imagination.

Mr. Chairman: You have to do something, even if it is not much. But if you took a strict definition of conflict of interest, no member could ever vote. There are a couple of private bills and resolutions floating around which point that out. There is also a recommendation in the Aird report, for example, that no member of the cabinet can hold any outside job of any kind.

There has been continuing discussion about how appropriate it is for members of the assembly to hold an outside job. At this point, there are a number of members who do have what, by anybody's definition, constitutes a second source of income. My outside income is restricted to ashtrays, mugs and book ends, with the odd T-shirt thrown in, but there are members who actually do get paid for outside activities.

Mr. Warner: Are you selling ashtrays?

Mr. Chairman: I sell a few.

I think we will have to take a look at that. Obviously, if you say the guidelines apply to all members, the ramifications of that are that members of the assembly cannot--I will put the awkward question to you--

Mr. Treleaven: You will no longer be farmers.

Mr. Chairman: You will have to decide whether it is reasonable for a member of the assembly who comes in here two or three days a week to continue a law practice, to engage in consulting work, to teach part-time or to carry on any other outside activities.

Mr. Treleven has raised the other interesting point. While we may be offering some latitude in terms of continuing to operate a business such as a farm or a service station, from time to time the notion has been put forward in the assembly that if you miss regularly, or more than a reasonable number of days for sickness, you should be docked days in pay. That concept has been debated. There is a resolution on the order paper having to do with members' pensions and whether you can collect them--double-dipping, so to speak. You may want to give some consideration to some of those concepts as well.

Are there any other responses to the Aird report?

Mr. Mancini: I think the member who put in this private resolution that all of us are in conflict is in conflict. I believe that member believes if we gave this issue to an outside agency, we would be doing better and, therefore, that member is trying, in some perverse way, to improve his or her own benefits from the Legislative Assembly. I think it is in reverse.

Mr. Chairman: That may be true.

Mr. Warner: I am not sure how you want to handle this.

Mr. Chairman: Today, I would be content with a general discussion. On next week, I would like to get a little more formal and tighter on it.

Mr. Warner: In terms of who is covered, my first reaction is that all members should be covered. I feel more strongly about it now than I did before I went through the Fontaine inquiry. Some of what happened there could have happened to other people without their being in cabinet.

It is highlighted if you are in cabinet because you are in a position of authority and you make decisions. If you think about the conflict, the conflict arose where he did not make a decision. He did not make a decision on the mining grant and he did not make a decision on the forest agreement. He was not the person who made the decision but he got into trouble because he held a position where he could make a decision.

I am not sure how much different that is from a member of the opposition who holds mining stock and is lobbying hard on behalf of his partners in that mining company to get a mining grant, or whatever other example you want to use. In other words, the opposition member does not have a position of authority, but he knows how to lobby and will use every means possible, pressure, embarrassment or whatever, to get the government to make a grant. Opposition members can run up conflicts of interest just as easily as cabinet ministers. It seems to me that all members need to be covered.

It does bring up the difficult point about our jobs. The job aspect is not as hard to handle as the business one. In other words, if you are a lawyer, a teacher or a doctor, you can quit that job or get a leave of absence. If you happen to own a business, the most obvious answer is to sell the business. However, suppose you are in for only a year and a half or two years in a minority government, there is an election, you are turfed out and you have already sold your business. That is hardly fair. I am not sure how to handle that.

First, I would like to see all members covered by conflict-of-interest legislation. Second, it seems to me it would be an acceptable principle that if you are elected to the assembly, that is your job and your responsibility. When the people elect you, we assume, to come down here and do something. Whether



you get here and actually do something is another story. I am inclined to say that is your job and you do not have any other.

The ramification is that there has to be some way to handle what you have lost or what you have left behind. One aspect of it is the salary, and that is fairly obvious. If there were a salary that reflected the hours and responsibility, that would make it a little easier, but that is not the whole answer. I come back again to the business, where a person has owned a store, a factory or whatever. It is not fair to ask that person to dump it.

Mr. Chairman: Can I elicit a little response? One way is to say the salary should be such that you can say to the member, "You cannot have an outside income." Another approach to the same problem is to do what the Americans continue to do and what the British did for some time; that is, to acknowledge that we do not want to pay these people very much because that is not a nice thing to do for a variety of reasons, but to accept the practice that a member could be sponsored as the members of British Parliament and some other jurisdictions are.

Mr. Mancini: What is that again?

Mr. Chairman: Sponsored members.

Mr. Warner: How does that work?

Mr. Chairman: The ones I am familiar with are sponsored by labour unions, in which case they are given a stipend to represent the union, or there are some Tory members who are sponsored by the corporate sector. You find a bank to sponsor you and, in essence, you are employed by the bank, the labour union or whoever wants to sponsor you. That supplements your income.

Mr. Treleaven: Talk about potential conflicts of interest.

Mr. Chairman: There is another jurisdiction you might consider a little bit. A number of American legislators have developed a practice which is a variation on that theme. It is very common for them to charge large amounts of money to appear at functions and to represent certain interests. This is a matter of public record, but it is also accepted practice. There are a number of American senators and congressional people who will charge a corporation \$3,000 for speaking at its public dinner or its annual convention.

Ms. Hart: Who would want us?

Mr. Chairman: You would be surprised at who would want you. If it was more than speaking at the annual convention, but because of that retainer you were expected to lobby for their interests in the parliament, which is the practical end of it, that is another thing. They really do not want to hear a \$3,000 speech but because they gave you that kind of retainer, if a bill is before Congress, you are expected to lead the lobbying delegation on their behalf and to vote in certain ways. In our jurisdiction, some might see this, the buying of members, as being not entirely appropriate.

16:40

Mr. Mancini: I am not sure it works quite that way.

Mr. Chairman: It is certainly a practice in other jurisdictions that allow for outside incomes. I caution you not to dismiss that out of hand and



to look around this country and see that we are not quite as clean as we would like to be on this matter. In Ottawa, one of the growth industries is who can lobby the government, who can provide you with inside information on how to do that and who knows who will make what decisions in which of the ministries. Senior civil servants are now setting up consulting practices. That is the polite term.

In essence, they are doing here in Canada what the Americans have done for a long time. They hire out their services. They know how various ministries work. They know these people. They know how to find them in the first place, which may be the biggest challenge, and how to influence them. In our own jurisdiction, the front line of this is beginning to hit our shores as well. We do have members now who have taken outside jobs and who are representing certain groups.

In advance of anybody challenging the conflict of interest on that, I suggest to you that we are not far away from having that before us as well. We do have people who are being used as consultants. They continue to sit as members. They may well appear before our committees and we will have to determine, "Are you here as a member or are you here as a consultant?" Even if they do not appear in front of a committee, is that considered proper?

In the Canadian experience generally, if I charge some guy \$10 for making an inquiry on his behalf on a compensation claim, Canadian experience says you should not do that; that is not proper for a member. What is the difference between my doing that for a relatively small fee and my charging somebody a couple of thousand dollars for writing up a brief on his behalf? That is another question. These conflicts are present in our jurisdiction.

Ms. Hart: It is interesting to have members appear before a committee as consultants, because the Legislative Assembly Act says that if you are a partner of a member, you cannot appear before a committee.

Mr. Chairman: That is right.

Mr. Warner: Yes, but the member can. That makes a lot of sense.

Mr. Treleaven: I think we would be taking a very bad step if a suggestion or a recommendation came out of this committee that members do not hold outside employment, business interests, etc., because as somebody here said we have the bottom of the barrel running around here now as members.

Mr. Warner: Speak for yourself.

Mr. Chairman: No one has ever said that to me.

Mr. Treleaven: Okay. What would we have if we said to every farmer, businessman and professional person out there: "You must completely cut off your livelihood. If you get bounced out of here, you have nothing to go back to"? People just would not run. I am sure a lot of people in here right now would not have run if they had been told they had to sell and divest themselves of whatever they had before they came here.

Mr. Chairman: I agree. However, if we do not deal with it, somebody else will have to because the problem will not go away. To offer a personal opinion, I think I could live with the idea that a business could be run in my name; I could hire somebody to run the business and I would step away from it. I should not be precluded from being a member because of that.

Where I start to draw the line is, were I a lawyer, would I feel comfortable appearing before a legislative committee on a client's behalf?

Mr. Mancini: You would not do that.

Mr. Treleaven: I really question whether you would find a lawyer doing that.

Mr. Mancini: When has that ever happened?

Mr. Chairman: In the past week or when? It can happen. I have a problem with that and I think some of us will have to deal with it in some way. The lines have to be drawn. To offer a personal opinion again, I think we have some members in our chamber who are taking advantage of the system. Why should some of us work four and five days a week and others feel free to work one day a month?

Mr. Mancini: It is up to the constituents.

Mr. Chairman: No. I do not accept that for a moment. The constituents do not have a chance to get at you until the next election. That is like saying I can rob a bank until that community says I have to stop robbing banks. If it is wrong, it is wrong now. We are going to have to wrestle with this a bit. I do not suggest there are easy answers here. Do members of this committee feel it is okay for a member to feel that he or she is free to attend to the business of the assembly one day a week? I do not.

Mr. Mancini: It is up to the member to decide.

Mr. Chairman: No. I do not think it is.

Mr. Warner: The members cannot decide. I think in Saskatchewan you are penalized \$50 each day you do not show up.

Mr. Mancini: That is one hour's work for Dick Treleaven.

Mr. Warner: I am not suggesting you do that. Some assemblies have taken a look at it and said: "You were elected; you are supposed to show up. If you do not show up, you do not get paid."

Another aspect of it is something we may not be able to address and that is what I call political ethics. I assume that when a person is elected, that is his job. I spend approximately 70 hours a week at this job. I suspect most of you do the same thing. I do not know how you do the job in less than that. If you are putting in only 20 or 30 hours a week, you are doing a disservice to the people who elected you.

Mr. Mancini: They will decide that.

Mr. Warner: Four years later. They did not know they were getting a lazy person.

Mr. Mancini: It is not always four years later. As a person who came to this assembly 10 or 11 years ago, I used to own a business and had to sell it immediately almost the day after being elected, because I could not be in Amherstburg and here at the same time. I had to make a decision about what I wanted to do. Because my business was a cash business, because it is difficult to control cash businesses and because my business was people oriented and I

could not be in Toronto and try to take care of customers 250 miles away, I sold my business. I decided I could not do both things, but I personally do not want to make that same decision for you or for any other member of the assembly.

We are all over 18, we are all grown up and it is up to us to make those decisions. If our judgement is poor in that area, our judgement is probably going to be poor in other areas and we will not be back. Some of them will not be back.

Mr. Warner: That is why I said it was ethics. It is tough to legislate against that. I find it very disturbing, which is why I mention it.

Mr. Mancini: There have to be some members who lie around here all week and do not get as much done as some members who are here three or four days a week. What are we trying to do here? Are we trying to measure the work of each member? We are here talking about conflict of interest. Conflict of interest is, are you using your job as a member of the Legislative Assembly or as a cabinet minister in some way to put yourself in somewhat of a better position financially or otherwise?

Mr. Chairman: Just to throw this in, because you raised this in the summer, Remo, and we do have to deal with it--

Mr. Mancini: What is that?

Mr. Chairman: We spent a good deal of the summer arranging our committee schedule around members' time. Some of it had to do with vacations but some had to do with the fact that a member of the committee had another occupation going.

Mr. Mancini: Why did we not do something about it when it was raised?

Mr. Chairman: Hold on. We tried to draw up a schedule that met everybody's competing demands. In the end, I did find I was frustrated by that process. I was not sure why 10 members of the assembly were expected to be here when the committee could and should have done its business. We rearranged our schedule to accommodate someone, not because he had another engagement that had to do with the work of the assembly but because he had another profession he was working at.

Mr. Mancini: We should never have done it. That is a lesson for us.

16:50

Mr. Chairman: There is nothing wrong with that, but in the coolness after the event is over, I would like you to reflect on whether that is appropriate. I am not convinced it is. It was not a big deal at the time, and it was possible, but--

Mr. Mancini: I suggest it had better not happen.

Mr. Chairman: I agree.

Mr. Warner: This committee has worked very hard to try to develop a team approach to the issues that come before it. We have all attempted to co-operate with one another, regardless of party. When this happened, we all sort of quietly said it was a member of the committee and we would try to be nice.



Mr. Chairman: We tried to accommodate it.

Mr. Warner: The logical thing was for us to have put our foot down.

Mr. Mancini: That is absolutely right.

Mr. Warner: Because we were trying to co-operate with each other, we did not do that.

Mr. Mancini: I hate to go back to this summer, but there were other requests made by members who were not seeking outside incomes that were not acceded to.

Mr. Chairman: I agree; you are right.

Mr. Dean: Remo touched on the aspect of the issue I want to say a couple of words about. I do not think we can judge whether any member is doing her or his work by whether he or she shows up here. Since this is only part of the work, how are we ever going to judge what they do in the rest of the work they do? It is impossible for us to be so specific in how much time a member spends at work. We can never really define it; maybe the member himself or herself does not even know sometimes. Is walking down the street doing your work? In some respects, it might be.

Mr. Chairman: It is in Oshawa; it is a chore.

Mr. Dean: On the other hand, you can spend all day around here doing nothing of any good to you, your constituents or the province as a whole. As much as I would like to see us able to keep people with their noses to the grindstone, I do not think we can.

Mr. Chairman: Let me rephrase this, because I think it is something we cannot escape. If we are to say there will be disclosure, in some instances we will recommend that it is inappropriate for a business to continue in operation with the member at the helm. You cannot pick on somebody simply because he is a business person or a farmer. You will have to deal with others who have other sources of income. If, in whatever way, you are shutting down someone's ability to make money while he is a member, you cannot pick on one group; you have to deal with the others.

For example, it is quite possible for me to back to teaching two or three days a week. For that matter, I could teach five days a week and still be a member. In our standing orders and legislation, there is absolutely nothing wrong with that. It might be two, three, four or five years before my electorate even gets a chance to comment on it. I could do that, but we may well be on the verge of drafting legislation that says if I own a business, all I have to do is put it in a blind trust and my business activities can continue. As it now stands, I may well be able to continue to run a business. Because I have a business, I may get penalized under certain rules. If I have a profession, I may be able to continue under other sets of rules.

I am trying to put in front of you that it is not a simple thing and that if we address one group of people who may have conflicts, we will have to address other groups that may have different, but real, conflicts. That is how they earn a living.

Mr. Warner: We have beaten this one for a little while. I gather we are going to go through these and when we come back next week we are going to try to tighten them up.

Mr. Chairman: What I am going to ask John to do for next week's meeting is to take the recommendations of the Aird report and put them in front of us, so we can test the waters.

For those of you who came in a bit late--I think I have consensus on this--we would like to expedite this process. We do not see any need to rewrite the Aird report. We want to respond to it and we want to recommend that the legislation that might ensue from this comes back here, so we will not have to do all the detail work that might be done at a later date. It is obvious that if the legislation takes certain steps, such as having a commission on compliance, the commissioner will do a lot of the detail work, so it will not be necessary for the committee to do it. We are trying to expedite the process by having a general discussion today, focusing a bit more next week and being able the following week to begin to move quickly through whatever recommendations we might make.

Mr. Warner: I would like to go through these in the order in which you raised them. I made little notes as we went through. I would like to deal with the definition part.

The current guidelines, which apply only to cabinet ministers, specify the spouse. Do they specify other family members or only the spouse?

Mr. Eichmanis: And minor children.

Mr. Warner: The question will be raised about whether that is sufficient or whether you expand it from there. I understand the Quebec legislation includes brothers and sisters, aunts and uncles or whatever; I do not know. It is really the extended family. I am not sure about that. Do you know when the legislation was passed in Quebec and what its experience has been? Has including this big family created problems or has it been smooth sailing?

Mr. Chairman: It is going to be tough to do that. You already have the compendium of legislation elsewhere as part of the material you got in the conflict-of-interest hearings. We cannot give you much in the way of the flavour of that.

One of the things that occurred to me on spouses and children was that I do not know how in the world we are going to reflect the changing society. The traditional idea would be applicable to me. You could define who is my spouse and who are my children over or under the age of 18. It would be fairly straightforward. That is not true in all cases.

By "spouse," do you mean "designated spouse," since we have a definition of that under the Legislative Assembly Act? Do you mean the person with whom the member is currently residing or do you mean the persons with whom he or she is currently residing? Defining relationships along traditional lines is becoming more difficult.

I do not think we want to recommend a designated mistress rule; maybe.

Mr. Warner: The male equivalent?

Mr. Eichmanis: The Family Law Act is mostly used.

Mr. Chairman: Yes. Various definitions are used; the Family Law Act, the Legislative Assembly Act.

Mr. Warner: I am familiar with the one used in the Family Law Act; that is a good one. When did the Quebec legislation come in?

Mr. Eichmanis: In 1982.

Mr. Warner: They have had about four years.

Ms. Madisso: Not necessarily.

Mr. Warner: We are not sure. Might it have been later?

Ms. Madisso: It might have been earlier.

Mr. Chairman: The latest changes were in 1982.

Ms. Madisso: Yes. This could be revised; I do not know.

Mr. Warner: Do other committee members have any problem with including in the definition in the conflict-of-interest legislation spouse and minor children? Is it "minor children," rather than "children under the age of 18"? Is that a problem with anybody?

Mr. Chairman: Yes. This plays both ways. There are some who have said that just because they are members, there is no reason their spouses should have to file forms giving complete financial disclosure. I have had that argument made to me personally by men and women. In the changing society, it may well be the wife who is the business person in the family and she may see no relevance in having to disclose all her business transactions, holdings, assets and ongoing business. There is an objection to that.

Objections have been raised with me about your definition of dependants, both those under 18 who live at home and those over the age of 18 who live elsewhere, and the definitions contained under the Family Law Act. No matter which way you turn on this issue, objections are raised.

How practical is all this? I have talked to people from the United States, where they have used a variety of definitions and they seem to have as many problems with one as with another. It may be the son or the daughter who has a mother or father. The son or daughter is elected and both parents are required to provide complete disclosure. They are rather upset that the whole family's business is a matter of public record.

In many places, even an appointment to an agency means complete disclosure for the entire family unit and anybody else they can think of. They are all on the public record.

17:00

Mr. Warner: Hold on a minute. That happens only if there is public disclosure. I understand why people would be upset but if I am filing and my spouse is filing all the information with the commissioner of something or other, that information is held in confidence unless there is a problem.

Mr. Chairman: Everybody I know started that way. Everybody I know of is aware that sooner or later it becomes public information under the freedom of information laws that we now have in Canada or under court proceedings. We do not have many of those, but there are more. If we simply have everybody file these documents with some commissioner and a dispute arises, how do you



resolve it if you choose to have the commissioner refer the matter to a legislative committee? It all becomes public information.

Mr. Warner: Mr. Treleaven, Mr. Bossy and I attended a Commonwealth Parliamentary Association conference in Charlottetown where one of the topics was conflict of interest. There was a presentation by two Quebec members, one from each party. Both of them are happy with the legislation. If I understand it properly, what would happen would be that I would go to see the justice counsel with respect to my filing and he would advise me in confidence about what is in conflict and what is not. He can table a report with the National Assembly and it is accepted without debate.

If a question is raised in the House about my conflict of interest, then I can table the justice counsel's report that says I do not have a conflict of interest. It is not debatable. The only way it becomes debatable is if there is sufficient material or evidence that would warrant a court case. You cannot use that as an opportunity to spring out all sorts of information and make it public.

Mr. Chairman: I understand the Quebec model. The problem I have is that we now have a cabinet in office where every scrap of information that it has filed with anybody has not only been made public, but has also been scrutinized by John Black Aird, by Blake Cassels and Graydon and by two legislative committees. We started out with a fairly private process too, and it did not take long, through a variety of circumstances, for it to become a full-blown public process. If you think for a moment that any one of them can stand up and say, "I talked to some lawyer who advised me and you all have to take that advice," I do not think that will fly.

Mr. Warner: Hold on. You are forgetting that all we have had until now are guidelines. There is no law. We do not have legislation; we simply have guidelines. The matter came before a committee of the House and committees have access to things.

Mr. Chairman: I point out to you that the beginning of the documentation occurred well before any committee of the Legislature got hold of it. It was the subject of questions during question period. The stuff was spilling out on the tables in the Legislature well before any committee got hold of it.

Mr. Warner: I am not suggesting that we simply adopt the Quebec model. What I am saying is that, in that situation, the justice counsel is available to advise all members of the assembly. The assembly accepts that the report that comes from his office has been done in confidence and is nondebatable. If you build that into your law, it is a protection to the members. It is the equivalent of a privacy law.

Mr. Chairman: I understand that, but what type of disclosure is it when you disclose to one person?

Mr. Warner: The justice counsel is in a position similar to that of an Ombudsman or a justice in the Supreme Court. You have to trust that that person is doing his or her job totally objectively and honestly. They are giving you their professional opinion and they are being candid about it. You have to trust somebody. In their system, they say there is a certain person whose position is honoured and trusted. If you have evidence--

Mr. Chairman: I cannot envisage that would apply here.

Mr. Warner: Perhaps it would not. I was attracted to it because I think it accomplishes two things. You can disclose. Whether it is the member or the member and spouse, or anybody else, you can make those disclosures. Someone determines what is conflict and what is not and the material remains in confidence unless there is a demonstrated problem.

If you do actually have a conflict and you ignore it, sooner or later that material is going to come out and there is going to be a court case. In the court, obviously, all this stuff that had been held in confidence will be revealed. However, that is your problem because you were told you had a conflict and you did not bother to do anything about it.

Mr. Chairman: Perhaps the other members would accept a trust-me system. I have some difficulty envisioning that applying to this cabinet, for example, which has had every financial record ever filed with anybody discussed in the Legislature for the better part of a year, then submitted to scrutiny by independent auditors Blake Cassells and then scrutinized again by the Aird report. They might have liked that a year ago but I think they are on the hook now to disclose publicly all of these documents.

Ms. Hart: I tend to agree with Mr. Warner. We have gone through a very unusual time in the past summer. If I understand David properly, he is saying that disclosure in the ordinary course would be to the designated individual. When you get into difficulties, then the cabinet member or members, whoever it is, has to understand that it is then going to be public. How could you complain about that if you caused your own difficulty?

Mr. Chairman: The problem would be simply this: Could the assembly and the people of Ontario find the one person we all trust, who is so wise that he or she would be the only person in Ontario who could determine that a conflict exists? Would the other members of the assembly accept what the Quebec model says, that if I challenge a minister of the crown with having a conflict, the minister is free to stand up and say "I tabled this stuff and the"--whatever we call this person--"says I do not have a conflict." Is that good enough? That would be a dramatic reversal of form.

Ms. Hart: If we could not find people in whom we reposed trust, we would never have a Supreme Court of Canada. Those people have to exist.

Mr. Dean: Sure, I mean--

Mr. Chairman: You can try it on for size, folks, but I do not think it is going to go anywhere.

Mr. Warner: Let me try a different angle. I confess I do not know all the particulars. I may have some of this information from the discussion we had in Charlottetown a little confused. At the time, I thought I understood both the Parti Québécois and Liberal members to say that they were very comfortable with their system. Perhaps their system would not work here. That is fine.

Mr. Chairman: Aside from that, the purpose of the exercise is not to make the members comfortable. I am very comfortable with not having to disclose anything. I am happy.

Mr. Warner: You say comfortable. They thought it was fair and they also felt there was still the avenue to discover conflicts. Conflict will exist from time to time and they had a way to get at it. They also had a way



to protect legitimate privacy. I think that is what we want to do, to provide an avenue to discover conflicts of interest but at the same time provide legitimate privacy for individuals who have not done anything wrong.

Ms. Hart: Obviously this individual, in order to have the confidence of the assembly, is going to have to be a person who is agreed to by all parties. I see that almost as a given.

Mr. Chairman: I am not rejecting this notion out of hand. I am just saying that I sat in the assembly and I watched the Premier stand up and say, "There is nothing wrong here." Nobody quit pounding. The senior civil servants who, since I have been a member here, were in charge of this, said publicly, "There is nothing wrong here." Nobody accepted it.

It is going to be difficult for me to believe we can find such a person in Ontario now. A year ago this might have been an entirely possible, plausible scheme. I am having great difficulty saying that anybody here would find this acceptable anymore, after our experience in the Ontario Legislature from this past spring until this fall.

17:10

Mr. Warner: I have one last point and then perhaps we can move on. If we do not accept the idea of the way they handle it in Quebec, we are going to have to find some other means to accomplish it at some point. If you agree that all members are covered, then all members have to supply some kind of statement of what they own and what their interests are. Otherwise, there is no point in having them covered, is there? The trick is to find a mechanism whereby the information is scrutinized and held in confidence, where there are no problems. I do not think there is any useful purpose in simply displaying 125 members totally to the world unless there is some problem.

Mr. Chairman: The critical point is, who gets to decide whether there is a problem? Frankly, the American experience is the other way. The Americans are so conditioned to disclosure now that they say, to paraphrase, that disclosure is the pertinent point. Put it on public record. Everybody is used to that. The kind of stuff you see in Washington and Sacramento is common practice in American politics. You know when you go for public office that you are going to have to disclose. You get ready for that. You prepare for the onslaught of the forms and the investigation. They do not do very much on the divesting side. They say that what is critical is disclosure. The public and the other politicians can judge whether you did right or wrong or whatever. All you have to do is disclose. That is not the Canadian experience. We would have problems with that.

Mr. Warner: Our system has a different fundamental basis to it. Our system is still built on the British parliamentary system of public trust. That is still there.

Mr. Chairman: I did not say that.

Mr. Warner: I would rather see us build on that.

Mr. Chairman: In my fantasies, I would like to believe that we are all honourable members and that nobody does anything untoward, but I have just gone through a whole set of hearings all summer long where the financial business of a member of the assembly, almost every scrap of paper that anybody could think of, was put on public record. If I were that member, if they did



that to me through this whole process--to be fair, we will do it for everybody or we will devise, perhaps not quite that process but a somewhat smoother, more civilized process whereby the same ends can be accomplished--I would feel bitter about that.

I would feel particularly bitter if I were one of those accused of having a conflict over the summer and we now were to say that we would take the Premier's word, the assembly's word, or the word of somebody in the Attorney General's office or the Clerk's office, because we did not do that this past spring. After I have been pilloried on the cross all summer long, we now will find a gentlemanly way to do this. I do not think that expectation, which I agree is preferable, is going to fly.

For example, who would want to take this up to the press gallery and say to them: "Now we are all born again. Now we are all worthy of honour and trust and we will anoint some sacred body that will do all this adjudication. The media will have no right to see the financial records of the member of an assembly"? The media would go hairy. They would go crazy. I would hate to see the Donato cartoons over this person.

Mr. Warner: Perhaps I am overreacting. There is no problem for me. I do not have anything.

Mr. Newman: Is this being taped?

Mr. Chairman: Yes.

Mr. Warner: We are going to have to wrestle our way through how we handle the disclosure and who is involved in the disclosure. It may be that all that is needed is for the members to be involved and not any other person. Maybe in today's modern society, that is a more appropriate way to approach it.

Mr. Chairman: This process having been started in Ontario, we certainly will not finalize it this fall by passing a bill. We will begin a longer process whereby these definitions are drawn and redrawn. This whole matter of conflict of interest, which was not of much concern to anybody in the assembly for a long time, is now front line. In Canadian politics there has been more press and more media attention on conflict of interest during the past summer than there had been during the past three decades.

It is now here and we have to live with it. The trick is to find something that the members agree is practical and will conform to without a whole lot of enforcement procedures, because that will be difficult. The public has to see the process as fair, and everybody else has to look upon it as reasonable. If there is anything that looks as if we are hiding the assets of a member, we will be rightfully condemned by everybody.

Mr. Warner: There is a fairly obvious problem if you decide it is only the members. Just to use a hypothetical example, if I were in the cabinet and owned a business that won contracts with the government and received special grants, and if I were to take that business and put it completely in my wife's name--

Mr. Chairman: Or my friend's name.

Mr. Warner: --I will not list that business, obviously, because I no longer own it; my wife owns it. Yet that business may receive preferential treatment because I am in the cabinet and am able to get a special deal for that business.

Mr. Chairman: That is precisely the point. There may be somebody who believes--not to pillory him unfairly--Sinclair Stevens knew nothing about his wife borrowing a couple of million dollars. Where I live, that has no credibility at all. It may turn out to be true that he did not know his wife had engaged in a business transaction of that magnitude, but among the people I live with, it is unthinkable that either spouse would engage in a major transaction of that order and the other spouse would have no knowledge of it. It is unbelievable. It may turn out to be true, but again, as we found when we went through our hearings, the reality of the past is sometimes irrelevant, because the public perception is so overwhelming. That is something else we have to grapple with.

Mr. Warner: May I ask about blind trusts? Through that whole wonderful summer, one of the things that puzzled me, and still puzzles me, is this concept of blind trusts. How practical is it in preventing conflict of interest? How blind is it?

I recognize that there are probably two basic types of blind trusts. One blind trust, which I do not have a problem with, simply administers stocks and bonds. The other, which really puzzles me, is for a business.

We went through this. Mr. Fontaine had a sawmill company that was put in a blind trust. I am really grappling with that. I do not understand how that works. I do not understand, if it is really blind and if it is practical, how that is a kind of defence mechanism.

Mr. Chairman: The difficulty is that you have to make the distinctions quickly. If an investment in shares in a publicly held corporation--if I own shares in Bell Canada or General Motors--is put into a blind trust, it is not very different from my hiring a business manager, an accountant or someone of that nature or with legal training to look after my imaginary investment portfolio.

Where it gets a little stickier is when those are shares in a private company that are not publicly traded. Moreover, the person operating the blind trust has to continue to operate that company. That seems to me to point out the weaknesses in blind trust.

17:20

The Aird report categorizes them. It wants to codify what we mean by a blind trust and it wants to regulate who can be in charge of a blind trust. It wants to monitor that process and it wants to have it reported on regularly. Aird in his report takes the concept of a blind trust and says that this is what a blind trust is, this is who can operate one, these are the circumstances and this is how it would be reported on, monitored and regulated.

He does what we pointed out in our hearings. The blind trust that we saw in operation was with people who had nothing to do with the Legislative Assembly. They were from all over Ontario, operating with different backgrounds and under different circumstances over which there was very little in the way of regulation. You were free to set it up as you saw fit. We saw repeated questions about who was in charge of this blind trust and what the agreements were in all that. Mr. Aird tried to codify that process.

Mr. Warner: Mr. Eichmanis, do you know whether what Mr. Aird describes is in existence in some other jurisdiction?



Mr. Eichmanis: No. In effect, it makes the commissioner the trustee of the blind trust, which is an original way of dealing with the matter. Rather than permit the individual cabinet minister to find his or her own trustee, under this proposed legislation, the compliance commissioner would be the trustee or nominee.

Mr. Warner: To use my example, do you mean that the commissioner ends up running United Sawmill?

Mr. Eichmanis: No; he would have a nominee. In other words, he could go to Royal Trust, Canada Trust or wherever and appoint that person, but the reporting relationship would be to the--

Ms. Madisso: Maybe I can clarify. Mr. Warner, what you are getting at is the distinction between running the business and who owns the assets. The assets, the shares, are put into the trust. The trust terms are in terms of dealing with those shares, selling the shares or not selling the shares. The actual running of the business will go on in terms of the employees, the manager of the business and so on, as always. The trustee will not have any dealings with that.

Mr. Warner: One of the problems in the Fontaine situation was that, prior to being elected, Mr. Fontaine was actively running the sawmill. He gets elected, and it is no longer either practical or possible for him to do that. At that point there is no connection with the commissioner; is that correct? What Mr. Fontaine has to do at that point is to hire someone who will act in his stead.

Mr. Eichmanis: Do you mean as the manager or as the trustee?

Mr. Warner: To run the business.

Mr. Eichmanis: You mean as a manager.

Mr. Warner: However, the manager, under Mr. Aird's scheme, reports through to--

Mr. Eichmanis: No. As Merike explained, the assets would be in a trust, and the trustee would have to be licensed under the Loan and Trust Corporations Act. In other words, somebody licensed under that act would have to be the trustee and, obviously, a manager cannot come within that definition. It would have to be a recognized trust company or somebody licensed under that act to act as a trustee. The manager will continue to run the daily business of the company, but the assets--that is, the shares and so on--would be placed in a blind trust.

Mr. Warner: To use this example, under that, Mr. Fontaine would have to trust that the person he appointed as manager would run the business the same way he would if he were there, as though it were his business, although he does not actually own it. He is now being hired; he is on a salary or something.

Mr. Eichmanis: He had that anyway. He had a manager before, when he owned the place.

Mr. Warner: But Mr. Fontaine was actively involved in the business. Now he is not going to be. He has to withdraw under this scheme and he has to trust that this business will carry on successfully in his absence. A manager is really on his own.



Mr. Chairman: I would say no. In general, I agree with Mr. Aird's comments on blind trust, that they need to be codified, regulated, licensed and all that.

I see it getting a little dicey if we adopted this concept and said that whoever you pick to run your blind trust must be licensed under this act, must report and be open to monitoring and things such as that. At some point, that person, in effect, becomes the owner of the business. How would you get around the situation wherein I owned a sawmill and appointed my longtime friend and acquaintance, in whom I had ultimate confidence in running this business as the manager, but the new trustee came in and said: "He may have been your friend and you might have thought he was a good manager of that operation, but I do not. He is fired."

Mr. Warner: Could the trustee do that under Mr. Aird's recommendations?

Mr. Chairman: I think he could. He is the owner. He operates on behalf of the owner. If the person operating the blind trust said the business must shut down because it was not financially viable any more, how would we address those problems?

Mr. Dean: We should be prepared to dispose of a business so identified.

Mr. Chairman: That is right.

Mr. Eichmanis: Except that there is a provision under the Aird model, in section 12 on page 80. The draft model bill is attached.

Mr. Warner: "Direct the trustee not to dispose."

Mr. Eichmanis: Yes. "The settlor of the trust may direct the trustee not to dispose of any trust property." That can be part of the trust provision.

Mr. Warner: It may be applicable.

Mr. Chairman: I am not very sure about that.

Mr. Dean: Does this mean that if I really want my Bell Canada shares saved, I would say to the trustee, "Do not sell them"?

Mr. Eichmanis: That would be the agreement between the trustee and the compliance commissioner. The compliance commissioner would be the one who would initially deal with the member or the cabinet minister to set out what he thought should go into the trust agreement. It would be up to the compliance commissioner, acting as the initial trustee, to stipulate those terms and conditions in the trust agreement.

Mr. Chairman: If the purpose of the exercise is to take away completely the individual's ability to have an impact on a business, if that is why you set up the blind trust, the person in charge of the blind trust then assumes the ownership role. With regard to the family business that I want to continue to run, it means that a person managing the blind trust could say it was not viable any more and shut down the operation.

Does the original person have the right to say it is important to him and that it might not be making money this year, but he would like to keep it

in operation for three or four years? Politically, if I owned the sawmill in Hearst, would I want to have it shut down? I am not very sure about that. Even if it were losing money, I might say: "Let me get through this softwood lumber crisis. Two years from now it will come back. Let me keep my business in operation for a while."

Mr. Warner: It is held in trust.

Mr. Chairman: If it is held in an absolute trust, I have no influence over that; I cannot do it.

Mr. Warner: Quite frankly, I do not have a whole lot of problems with that, because the other side is that you know these rules before you get elected. Suppose for a moment that we go through this exercise and end up with legislation that is passed before the next election. Every candidate knows this stuff before he or she puts up his or her name. You know that if you get elected and you own a candy store or whatever, you are going to put it in trust and rely on some individual making the wise decisions you made on a daily basis before you were elected.

Mr. Chairman: What David is talking about brings out another point that has been raised with me by several members: How do we get from here to there? One hundred and twenty-five people were elected when you did not have to provide disclosure. Is it fair to say to them they must now disclose? Frankly, I do not see much choice in that matter; there must be some disclosure in some form or other.

However, I see some reasonable argument for saying that an American politician running for public office knows this is there. He is going to have to fill out forms and disclose everything he and his family own, etc. He knows that going in. Is there any way we can accommodate our people?

17:30

The best I can think of is that we will probably wind up doing this in phases in any event. I have no doubt in my mind that, in Ontario, within four or five years we will be at complete public disclosure for the member and just about anybody else you can think of. I think that is inevitable. Do we want to give people some time, some notice, to think about how this will all apply to other members of one's family, other people one knows? In other words, how practical is it to set this all up at once? It may not be.

Mr. Warner: If there are rules devised about divesting, blind trusts and so on, and if they apply to all members, then in fairness you cannot bring them in in the middle of a parliament. Changing rules in the middle--

Mr. Chairman: Except, is it politically acceptable to say, "We will all be good boys and girls but not for three years"? I do not think that flies either. That is a quandary I have.

The other difficulty I thought of when people started discussing with me the fact that you would exclude any outside income--the first thing I thought of is, what if my mortgage is geared to a certain income level? For example, my wife works. If my wife did not work, I would have some difficulty meeting the mortgage on our house. If somebody devised a rule that said a member's spouse cannot hold a job, London Trust and I would have to have a little discussion next week to try to renegotiate a mortgage.

I am mindful that things we may recommend are going to have ramifications we have to be thoughtful about. I do not think it is our job to be cruel to people. If somebody has gone out and got a job in the outside world because he needed the money to pay the mortgage, and we did not make a move, for example, on members' incomes here, that seems to me to be unfair. I think we can accommodate disclosure and new rules that say you cannot hold outside jobs, but in order to do that we have to make some other moves which some members may feel are unpleasant. You have to be real for this thing.

Ms. Hart: I have a question arising out of your example. Do I take it you are contemplating something in this legislation which will require spouses somehow not to be able to earn their livelihood?

Mr. Chairman: I am mindful that some of the ways you could cut on this would be--it would be difficult for me to imagine a way in which you would eliminate totally the ability of the spouse to earn money, but almost any way I can think of has an impact to it. If the spouse is required to declare, and we put in tough conflict-of-interest legislation, it is pretty clear to me there will be some impact at least on the spouse's ability to do business.

My spouse is a teacher, so it is a little difficult to stretch it that far, but say my wife was a consultant on land development schemes and part of her job was to advise developers on how to get government grants to proceed with big apartment developments on the Toronto waterfront. If we put in a tough conflict-of-interest guideline that said, "You cannot as a member, nor can your spouse, trade upon your influence and your ability to lobby members or be aware of how government grants are issued," it would put my wife out of business overnight.

That is not a far-fetched example. That is what the other conflict-of-interest hearing was about. It is not difficult for me to envisage that you would draw from the Caplan example conflict-of-interest guidelines that would prevent Elinor Caplan's husband from doing business as he has done business to this date. No matter what guidelines you put in place, at the very least, you would have an impact on his ability to earn income. We have to be mindful of that.

Mr. Warner: Spouses who are lawyers would likely not be able to do business with the government.

Mr. Chairman: They would be inhibited.

Mr. Warner: They could have private clients but they would be inhibited from doing business with the government.

Ms. Hart: Let me put to you an example that is rather close to home. My husband practises administrative law before provincial government tribunals and has done so for 12 years.

Mr. Warner: He should consider retiring.

Mr. Chairman: I do not think we have to draw definitive lines here, but we do have to be mindful that these things have ramifications. For example, Sinclair Stevens's wife is a businesswoman. The allegation is that she did business with a bank that received grants from the federal government, from his ministry. That is the allegation. It may turn out that the allegation is true but that she was not wrong in any sense. It may also turn out that the



allegation is not only true but also that the rules of the game have changed and that she is precluded from doing business in that manner any more.

The instance you quoted for me does not look like much of a conflict, but I am only one of 125 members. There may be other members here who would say, "Your husband has to declare a conflict of interest each time he appears in front of one of the tribunals." Whether or not he is still allowed to function, it is going to limit or have an impact on his ability to earn a living.

Ms. Hart: It takes it away.

Mr. Chairman: Yes. We have to be mindful of that when we draw up these things. In my own caucus, the joke is, what assets do we have? It was my joke too until I stopped to think about it. I have a house. We have loans with credit unions. I am on the board of directors of a number of community agencies, many of which apply for grants from Ontario for their funding. In the past year or so, I have begun to advise people, "I would like to be an honorary member, but I cannot be a practical member of your board of directors." A number of us are beginning to see that there is a bit of a conflict there.

For the purposes of reality, I am not a director of anybody's board. I do not go to their meetings either. I might go to their annual meetings. However, we have seen ministers of the crown here who have one share in a company that is worth no money, and they have been called in conflict with the guidelines.

I am sure no member here thinks he or she has a conflict, but as we draw up these guidelines, we should be conscious that we will have an impact on somebody else's life and on our own. Both members who were alleged to have a conflict came before the committees and said, at least initially: "There is nothing wrong here. I did what everybody told me to do." In both cases, the committees thought differently. At the Stevens inquiry, I do not hear Sinclair Stevens saying, "I have a conflict of interest," but somebody thought there was one. About \$3 million of the taxpayers' money is going into the investigation of those allegations.

We have to be mindful of these things. I think they apply to every member. They do not only apply to a little group of business people who might have those connections.

Mr. Warner: Can I turn for a moment to two things that link together, the monitoring or advising and the question of process, whether there is a role for the courts or for a legislative committee? In Mr. Aird's report, his commissioner of compliance is someone who receives information, provides advice and can then conduct an inquiry of his own. Is that correct?

Mr. Eichmanis: Yes.

Mr. Warner: When the commissioner has conducted an inquiry, what happens at the end of it?

Mr. Chairman: That is a good question.

Mr. Eichmanis: There are several kinds of inquiries.

Mr. Chairman: That is another point, Mr. Warner. We will have to

deal with that. The parallel may be the Ombudsman having similar powers to hold inquiries, make findings and things such as that. However, the Ombudsman reports to a committee of the assembly, and that may be what transpires here. Mr. Warner, as you say, the commissioner makes the final decision. That would be a little unusual, but it could be done.

Mr. Warner: It says in section 23, on pages 83 and 84, although it makes a distinction: "The commissioner shall provide, in confidence, his or her decision concerning the alleged violation to the Premier. In all other cases of requests pursuant to subsection 20(e), the commissioner shall provide his or her decision to the Speaker of the assembly who shall cause the report to be laid before the assembly if it is in session or, if not, at the next ensuing session."

Then it says the decision of the commissioner is final and cannot be questioned or reviewed in court.

Mr. Chairman: If I may intervene, when I read that I thought, "That is fine; that keeps you out of the court system." He is tabling something with the Legislature.

Mr. Warner: That is it.

Mr. Chairman: Is that it? I do not see how you would stop any committee from saying, "We want to talk about the report of the commissioner."

Mr. Warner: I mean that is it in his scheme of things.

Mr. Chairman: What you can do in the law is preclude anybody taking court action subsequently. It is not clear to me because it rather remains silent. I think the inference is clear that in his report, Mr. Aird says that once the commissioner has heard the case, that is it. However, tell me how you would stop a legislative committee from picking that up and going with it. I do not know how you would stop it. Tell me how you would stop somebody from raising a question during question period about that report. I do not know how you would do it.

Mr. Newman: We are going ring-around-the-rosy right now. I suggest we adjourn.

Mr. Chairman: Is there anything else anybody wants to raise that we should get material on?

Mr. Warner: I just want to make sure I am clear on what we are going to do next week.

Mr. Chairman: Let me put it this way. We will try to go through the Aird report, not quite clause by clause but principle by principle, and get a little closer to a focus and a direction, so that the staff will be in a position to draft a report. Then we will begin to go clause by clause. I do not anticipate we will have a lot to say about the editorial comment and the verbiage, but the recommendations will be subject to considerable discussion, and we will try to give enough direction to staff that they can put a draft recommendation in front of your nose the following week, when we will start to make our decision. That is the way I envisage the process.

Mr. Warner: That sounds fine to me.

The committee adjourned at 5:42 p.m.





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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CONFLICT OF INTEREST

WEDNESDAY, NOVEMBER 12, 1986



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

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VICE-CHAIRMAN: Mancini, R. (Essex South L)

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Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Warner, D. W. (Scarborough-Ellesmere NDP)

Substitution:

Polsinelli, C. (Yorkview L) for Mr. Bossy

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, November 12, 1986

The committee met at 3:51 p.m. in room 228.

CONFLICT OF INTEREST

Mr. Chairman: This afternoon, the first order of business is to deal with the motion tabled by Mr. Warner at last week's meeting. We will then proceed to go through the summary of the Aird report, and Mr. Eichmanis has ready for us today a summary of the draft conflict-of-interest act that is proposed in the Aird report.

Mr. Warner tabled this motion last week. I asked him to put it on the table as notice and said we would deal with it this week. I take it you now want to move that motion, Mr. Warner.

Mr. Warner: Yes.

Mr. Chairman: Before we begin, can we have general agreement that we will get through this motion in a reasonable length of time, with reasonable debate and without moving closure? I would like to get at this Aird report.

Mr. Warner: I agree. I will be brief.

Mr. Chairman: I have heard that before too.

Mr. Warner: Everyone has had a week to ruminate on this one, and I guess longer, since we received a government response to our report, dated October 27. The trigger words for me are contained at the bottom of page 7:

"This set of recommendations suggests the involvement of the Legislature in reviewing all appointments to agencies, boards and commissions. The government believes these recommendations may have some merit. However, since they would entail a significant departure from parliamentary tradition, the government wishes to examine them further."

Mr. Martel: Weasel words.

Mr. Warner: Weasel words if I ever saw them.

Members will naturally be aware that there was an agreement signed on May 28, 1985, which outlines in part the establishment of a select committee on procedures for appointments in the public sector to recommend changes in the system of recruitment and selection of public appointees.

That was the agreement. We went through the whole process in good faith to come up with a new system, something that got rid of the old patronage system whereby you simply rewarded the party faithful and those who were supporters of the government by appointing them to every conceivable agency, board and commission--library boards, liquor stores, conservation authorities and right throughout the 2,500 or more appointments.

When we tabled our report, I felt that we as a committee had done a good job. I felt that we had offered not just to the government of the day but to



the people of Ontario a fresh look at how the appointments could be made and a new opportunity for the general public to participate in library boards, conservation authorities and so on, a participation not limited by party affiliation.

I think we did a good job. All members of this committee should be very upset with the government response because we all signed that report. I can only assume from what the government presented back to us that the spirit of reform, shall we say, has worn off after only a year and a half. Now they are in charge of the trough and have decided their friends will be rewarded, and so much for reform.

Perhaps the new group in charge over there is not a lot different from the old group. I take it that because we worked together as a team in coming up with an admittedly different way of doing things, a better, more open and responsive way, involving the public, that all of us are naturally concerned and upset by the government's response.

By passing this motion today, we as a committee will serve notice to the government that we are not simply going to roll over and play dead because it has now decided to pull back and not be supportive of progressive change. With those brief remarks, I conclude.

Mr. Mancini: I have a couple of points. I note your suggestion, Mr. Chairman, that we should not unduly debate the motion, as we have the Aird report to look at. I will try to accomodate your request. I should make it clear, for the record anyway, that it has been the policy of this committee, as long as I have sat on it, that all the members of this committee sign a report that is prepared by the committee, whether or not the members agree with each part of the report. We have tried to get away from minority reports; so members have been signing reports that they may not agree with in their entirety. I think that should be on the record.

The second point I would like to put on the record is that the system of appointments has been changed drastically. There is far more consultation now with the leaders and members of the opposition than there ever has been in the past. That in itself has opened up the process a great deal. I just took a moment to jot down the names of four or five people who have been appointed, such as Odcardo Di Santo, George Samis, Bob Elgie, Donald MacDonald, the former vice-president of the Ontario Federation of Labour--people whose party affiliations have not been the same as the government's. Those are just four or five names I have jotted down. I guess I could get a rather lengthy list if I were asked to do so.

Interjections.

Mr. Mancini: I think you would be surprised. There has been considerable change in the present system, compared with the previous system. In its response of October 27, the government did not firmly rule out what the committee reported. In some respects that is positive.

We made up two or three lists of things in the appointments procedure we wanted changed. Part of the list concerned officers of the House and a number of others; the Ombudsman, etc. Then we listed a number of important crown corporations that we wanted to have some influence over when people were being appointed. Then there was the third list concerning health councils, conservation authorities and all the others that are available to us.

If I remember correctly, the committee in its entirety agreed with the first two lists, but there was a great deal of scepticism--at least on my part--as far as the last list was concerned. I do not have Hansard with me, but I stated at that time that there are already other ways for members to question political appointees if they wish. They can do it when the annual estimates of a particular ministry are before the members. They can do it when they are reviewing agencies, boards and commissions.

There was one committee over which we had jurisdiction at one time--and I am sorry we have given that up; in retrospect, it was a mistake on our part, although we agreed to it at the time. There would have been nothing to prevent that committee from calling in a particular board and questioning political appointees on any number of things members felt they wanted to question those appointees about.

I do not view the situation as negatively as has been put this afternoon. At present, I have some difficulty supporting my friend's motion. We may want to table it for a while, give it some more thought, come back to it later and see what we can come up with. That is an option my colleague has put forward.

I am actively lobbying on behalf of the member for Sudbury East (Mr. Martel), because who knows what will happen when the next election is called? After serving for so many years and working so hard on behalf of the good people of Sudbury East--

Mr. Warner: With your help, he is doomed.

Mr. Mancini: If anybody were to ask my opinion, I would say that if there is anybody who could continue to serve the public, it would have to be my friend the member for Sudbury East. The last time I talked to him, he was not a Liberal.

I do not view the situation quite as negatively as my friend the member for Scarborough-Ellesmere (Mr. Warner). It may serve some benefit to think about it for a while to see where we go. I want to have the record show it has been past procedure for all members of the committee to sign a report whether or not they agree with the report in its entirety.

Thank you for your patience. Maybe we can have some more discussion on this matter.

Mr. Chairman: To elaborate slightly, there is no question in my mind that the report was not one that any member of the committee was totally happy with. It was compromise at its utmost, and it took a long time to get it. It was a foregone conclusion that there would be parts of that report which everybody was unhappy with, but on balance, it was seen to be a compromise among all members as to what was a reasonable way to proceed. It was not viewed by anyone as the ideal, ultimate solution.

Mr. Dean: I want to congratulate the member for Essex South (Mr. Mancini) on his powers of persuasion. When I came here, I was not sure I supported the motion made by the member for Scarborough-Ellesmere. In listening to what the member for Essex South has said, and with the kinds of options there may be other than what is shown here--the extensive list of five people who have been appointed by the generosity of the government, looking at this but not officially adopting it--I am convinced it is not going to work unless we have something like that. Therefore, I will support the motion that is before us.

Mr. Morin: I take Mr. Warner's amendment seriously. I would like to give it more time. I agree with what you said. We did not agree on all the changes we brought forth. Can we possibly table it and come back to it later?

Mr. Chairman: Can I make a suggestion? I do not want to spend a lot of time on this today. It would please me no end if a clarification of the government's position could be made by means of a minister's statement, a response to the committee or whatever. That might be facilitated by tabling this motion now and writing a letter to the government House leader or someone, indicating we would like clarification of the government's response.

Mr. Mancini: You have not been restrained so far over the past couple of weeks from making public comments on the government's statement of October 27. We are all free to put questions in Orders and Notices and to rise in the House and ask questions. It seems to me to be somewhat dubious for members to go out, make public statements about what is right and what is wrong and then come before the committee and say, "Let us write them a letter on behalf of the whole committee." I cannot go along with that. I am sorry.

Mr. Chairman: I am getting confusing messages here. I heard a message from one member asking for it to be tabled.

Mr. Mancini: He asked for it to be tabled for further consideration at some other time.

Mr. Chairman: Are you saying you do not want it--

Mr. Mancini: Ask him again.

Mr. Morin: I am asking you to table it and to present the amendments at another time.

Mr. Martel: Why do we not invite the government House leader or the Premier (Mr. Peterson) to attend our next meeting to give us clarification? If you do not want to vote on the motion, we can wait for a statement in the House and invite either the Premier or the government House leader to come and make a clarification at our next meeting before we vote on it. That would be the simplest way.

Mr. Polsinelli: As all members know, I have been here for only just over a year. I would like clarification with respect to committee procedure. My understanding is that the committee handles business that is referred to it from the House. In this instance, it seems the committee has filed a report, tabled it in the Legislature and is now dealing with an aspect of that report. Is it in order to deal with this motion, and has it been put before this committee properly for its consideration? I ask this as a new member.

Mr. Chairman: There are two ways that things get in front of the committee. One is that, in the motion of reference establishing the committee, for example, this one, the terms of reference are set out, so to speak: the standing orders and all things having to do with the Legislative Assembly, with members' services, with the televising of the proceedings and all that. All those things, of which this is one, are the domain of the committee.

From time to time, we get matters referred to us by motion of the House. Each of the conflict-of-interest allegations that were made over the summer was referred by motions specifically to committees.



In this instance, this matter is probably before the committee as much on the mandate of the committee as by any motion of the assembly. It is kind of the two ways that are in operation around here for having matters before a committee. One is within your terms of reference--and this is within this committee's terms of reference--and the other is by motion of the House, one way or the other.

Can I get some assistance from you on how to proceed from here? Just let me try again for clarification. I have a request to table this to provide for some response, I take it?

16:10

Mr. Morin: No, to give us a chance. You can have a vote at a later time. I want to make sure that we respect our commitment ourselves. The report, as you know, was not accepted by everyone. I just want to review that amendment and give it some thought. I treat it seriously, because you are saying we are not honouring our commitment. This is very serious. In other words, we are liars. That is what you are saying. Is that not correct?

Mr. Warner: You are not. That is clear.

Mr. Chairman: No, you are not saying that. Let me clarify that. He may be thinking that, but he is not saying it.

Mr. Morin: I am glad you withdrew it immediately.

Mr. Martel: It is a half-truth.

Mr. Chairman: I have a request to table the motion. To be fair, if the motion is to be tabled today, it can be done only with the understanding that a response will come from the government in some form: a statement, an appearance; one of the government members will make a statement to the committee?

Mr. Martel: Before we do that, will you consider my suggestion that we invite the government House leader to come down and chat with us at our next meeting?

Mr. Mancini: The government House leader made a statement on October 27 to the effect that--

Mr. Martel: You are the one who just finished saying a while ago that you thought we would have to clarify, review, regurgitate, dissect and bisect it or anything else you want to do with it. Some day you are going to have to come up with an answer.

Mr. Mancini: No, I did not say that at all.

Mr. Chairman: What is your pleasure?

Mr. Warner: Since it is my motion, I am inclined to set this one over again for yet another week. You folks have had it for an entire week.

Mr. Mancini: That is a long time.

Mr. Warner: Yes, it is a long time to read these three paragraphs. I am inclined to set it over only on the proviso that Mr. Nixon come before us to explain his remarks.

## Interjection.

Mr. Warner: Just a minute. I am very upset because of the games you folks are playing. It started a couple of weeks ago. It is a hardening of the political lines, which I understand. You guys want to play hardball, and that is what I am going to play. You tried the little trickery around the night sittings, which did not work. Then you get the patronage report, and what is the response to it? One of the major recommendations of the report was to advertise the 2,500 jobs. What is the government response? "We are not advertising them." That was Nixon's response. In other words, you do not want any part of it.

Now I am suggesting that we are going to do one of two things. Either the House leader comes before us, in which case I am fully prepared to set aside this motion until he comes before us, or we are going to vote on it now--one or the other, but I am not playing games.

Mr. Chairman: Okay. Mr. Mancini, help me out here.

Mr. Mancini: I will do the best I can and I will avoid--I was going to make some comments, but I will skip over them. This committee can pass a motion any time it deems fit to call anybody it wants. For anyone to suggest that either we vote on this motion now or we do not vote on it and agree that somebody has to appear--in my view, those two do not fit together. If it is the wish of a member of the committee, or of the majority of the committee, to have someone appear, the proper course of action is for the member to make a motion saying it is important for us to have this person appear. Then we deal with the motion as we usually deal with motions.

If you do not want to hold the motion over for further thought, as was suggested by my colleague, that is entirely up to you. I thought my colleague's suggestion was fairly reasonable, but you have attached some kind of addendum on that, that you will hold it only if we all agree to have someone here. The two do not correlate. If you want someone here, ask for the person to come; ask for the person to appear. When have we ever been afraid to ask for people to appear before this committee?

Mr. Warner: Would you agree to Mr. Nixon being asked to come before us?

Mr. Mancini: You can make a motion any way you like. We will discuss it, we will vote on it and we will see what the majority says.

Mr. Warner: That is not what I asked.

Mr. Chairman: Okay. Let us stop the cross-fire.

Mr. Polsinelli: When I agreed to substitute this afternoon for Mr. Bossy, I thought we were going to discuss the proposed conflict-of-interest guidelines and the Aird report.

Mr. Chairman: I would very much like to do so.

Mr. Polsinelli: I find myself in the midst of a political debate. Without drawing partisan party lines and debating this for the next hour or two or the next week and eventually coming to no resolution, I suggest that Mr. Warner can obtain an answer to this question tomorrow afternoon if he so desires. It is an appropriate question for him to stand up and pose during

question period. He can ask what the government is doing with respect to appointments in the public sector.

Mr. Martel: They can also call and debate the issue in the House if they want to.

Mr. Polsinelli: He does not have to submit a motion through this committee, where you have a six-to-four passage of the motion and send it to the government for its response. In his usual magnanimous way he can get up tomorrow afternoon and make an elaborate speech in the Legislature during question period. He can ask the government what it has been doing with respect to the public appointments and why it has not, in his opinion, complied with the committee recommendations. I assure you, Mr. Chairman, that given the type of responses that have come from our House leader in the past, he will get a fairly lengthy response.

Mr. Warner: I got a response. That is why I am upset.

Mr. Chairman: Let me make a suggestion about how to proceed from here. I had a chat with Mr. Nixon about the reply. Part of the problem is that that is not really the government's position. It is a staff-prepared reply to a committee report.

It might be useful to stand the motion down and ask the government House leader to provide us, either by appearing in front of the committee or in writing if he is too busy to do so, with a further response.

Part of my difficulty with the tabled reply is that it does not say yes or no. It says that these things are all under consideration, and I would like some consideration.

I would not like to do that in a spirit of confrontation. In designing the report on appointments, we worked very hard not to get into a confrontational mode here. We all accepted compromise. I am certainly not anxious to avoid confrontation, but I do not want to waste my time on something where it may not be necessary.

There may be an opportunity for the government to reply in some form between now and next week. That would be appropriate. You are very right. You can ask questions. You can do whatever you want. There is nothing to preclude a member of the committee from making statements, asking questions or doing whatever you want.

Would it be agreeable, Mr. Warner, to stand it down for a week to allow the government time to provide some kind of reply?

Mr. Warner: It just just pains me, because my rodent sensor tells me otherwise, but I would agree to stand it down.

Mr. Mancini: Why? Did you lose count of a few numbers?

Mr. Warner: Do you want to vote?

Mr. Mancini: I really feel threatened.

Mr. Warner: The other guy is playing games. That is the one thing that really upsets me.



Mr. Mancini: St. David is not playing any games.

Mr. Warner: Baloney. You guys started this little routine two weeks ago.

Mr. Mancini: David is pure.

Mr. Chairman: I see this is going to go on for a while, so help me. Do you want to withdraw it or not?

Mr. Warner: I am not withdrawing it. I will set it aside for one week.

Mr. Mancini: Agreed.

Mr. Warner: I also ask that we invite Mr. Nixon--

Mr. Mancini: No, it is not a motion. If you want a motion--

Mr. Warner: It is not a motion.

Mr. Chairman: Let us hear what he wants to do before you condemn him roundly.

Mr. Warner: I ask that we invite Mr. Nixon to appear before the committee at his earliest convenience to discuss the government's response to the Report of the Standing Committee on the Legislative Assembly on Appointments in the Public Sector.

Mr. Chairman: Okay. Would you like the chairman to do that privately? Is that a reasonable way to proceed?

Mr. Warner: Yes.

16:20

Mr. Polsinelli: Except that if an amendment is added that this motion is going to be debated next week, Mr. Nixon might not be able to make it. Perhaps this should be tabled until Mr. Nixon is capable of attending.

Mr. Chairman: Or until hell freezes over, whichever is earlier.

Mr. Polsinelli: As our Premier says, you cannot have it both ways. If you want to debate this--

Mr. Martel: Mr. Polsinelli is not being at all helpful.

Mr. Chairman: The matter is resolved. The motion is tabled. I will take it upon myself to speak to the government House leader to see whether we can get another response.

Let us turn now to the fun of the Aird report. For the purposes of today's discussion, we can go to the summary of the Aird report prepared by Merike Madisso and John Eichmanis. It might be helpful to go through the first and second pages, where the critical issues are laid out. If it is seen by the committee to be reasonable, we can have a little more specific discussion this week to provide background so that the staff can draft a report for next week. We will then begin making decisions on the recommendations that would be in the report.

We have had a staff report for some time so that the text of what might go in a report is there to be altered in whichever way. We have a second staff report on the actual legislation included in there. With some discussion today, we can get to the draft report stage. There is a feeling on all sides that we would like to expedite this piece of business and get it reported so that we might soon take on the task of the actual government legislation, which will, in all likelihood, be referred to this committee.

If the committee wants to have public hearings or examine the various concepts clause by clause, we can do it as early as this fall session. There is a sense on all sides that we would like to respond to the Aird report rather quickly, and if we are to get into detailed discussion of the mechanics of it, the best way to do it is through the legislative format.

Mr. Mancini: That brings up a good point. Our interest in doing this right away puts everything else on the back burner: the freedom of information bill and other work before the committee and, in particular, the matter of members' services. If we cannot do justice to members' services, I would respectfully request that we give up the obligation, because it is not fair for members not to have a members' services committee or to have the obligation on the shoulders of a committee with so many other obligations that it cannot do justice to it.

There is only one place for members to have their concerns fully debated, and that is the members' services committee. As I said earlier when we were talking about the standing committee on procedural affairs and agencies, boards and commissions, which was disbanded and changed and all of the other stuff we recommended, we should have at least one day when we can give serious thought to whether we made the right decision when we took on the responsibility of members' services and gave up the responsibility of crown corporation reviews.

Mr. Chairman: On that point, at a previous committee meeting--I am not sure whether you were here for that--we entered into this discussion.

Mr. Mancini: I was here; I brought it up.

Mr. Chairman: It was my understanding that, for example, we would proceed with members' services matters as they arose. We have one piece of correspondence on a matter raised by a member. We have asked the Speaker to investigate the matter and report back to the committee. It was generally conceded that if we got into a fairly large number of items, we would probably strike a subcommittee to deal with those matters. I expect we would do that the moment we had several agenda items dealing with members' services. As we have done with the security matters, we would strike a subcommittee that would, in effect, deal with those matters.

Mr. Mancini: Members are in the weakest position I have ever seen them in the 11 years I have been here, because there is no real members' services committee. I cannot think of a parliament or a Legislature that does not have a full-time members' services committee.

Mr. Chairman: The problem I have, frankly, is that I have no matters relating to members' services before the committee.

Mr. Mancini: There are a lot of matters.

Mr. Chairman: I have none. If anybody has a problem, he should let me know.

Mr. Mancini: That is fine. There are no problems.

Mr. Warner: We agreed earlier with Mr. Mancini's suggestion. Now he is withdrawing his suggestion.

Mr. Mancini: No, it is not that.

Mr. Chairman: No, that is a good point. Perhaps we might discuss it further between this week's and next week's meetings.

Mr. Warner: I have not eaten in three days.

Mr. Mancini: He had some Wheaties this morning.

Mr. Chairman: Can we get on to the Aird report?

Mr. Martel: May I make a suggestion? If my friend across the way has a list of items that he thinks should be looked into, would he kindly present it? Then we would know what he wants to talk about.

Mr. Warner: Then our committee can meet.

Mr. Chairman: Just to clarify, we have one matter that I would consider to be a members' services matter. Committee accepted it; we have asked the Speaker to do a report on it. The general procedure has been for the whole committee to see these matters when they are referred to the committee. If there is a need, we would strike a subcommittee to deal with the detail work on it; then it would come in to the full committee and be reported out through the full committee. As of now, I have one matter. If there are more matters that members wish to raise, they should let me know and I will put them on the agenda.

Mr. Mancini: For the sake of brevity, I will mention a couple of things that have been brought to my attention. There are concerns about the new computer system that has been installed and when and if it is ever going to be moved to members' constituency offices. Members have brought that to my attention.

There is a great deal of concern about the present cafeteria, which we, as a committee, promised our colleagues we would improve because we closed the restaurant at night. Nothing has happened. Members are asking about it.

Mr. Chairman: The last matter was raised at a previous committee meeting, and we have asked the Speaker to prepare a report for us on it.

Mr. Mancini: That is fine.

Mr. Chairman: Let me make clear that if there are members who have raised matters, would the committee members tell me what they are? I will gladly put them on the agenda. If there is a letter that any member wants to write indicating a problem area, we would be happy to put it on the committee's agenda, strike a subcommittee and deal with it.

Mr. Warner: At the top of the meeting next week, could we go over the members' services items?

Mr. Mancini: I personally have not run into any problems that I cannot solve for myself, but there are members who say, "Why is the members' "



services committee not devoting some time to this?" I tell them we are busy, and we are.

Mr. Warner: Why do we not start with a quick review of the members' services items next week?

Mr. Chairman: Okay, let us proceed with the Aird report. To go through the summary of the report, we would first go to the bottom of page 1. The first major heading would be the obligation to disclose. This may pose some difficulty, but we have to deal with it.

Second, definitions are being sought here. As we discussed earlier, the commissioner could deal with this and establish these definitions, but it is part of our obligation to take a run at broad, general definitions, at the very least.

We need to discuss a definition of "doing business," or purchasing directly or indirectly with the province of Ontario. What are "normal business purposes"? What is meant by being "contractually involved" with the government? On the issue of blind trust, discussed at some length in the Aird report, we probably need to say yes or no to the idea of blind trust and then try to define exactly what that means. What should be done with other types of investment?

As well, one of things that has to be addressed is what should be done with things of no practical value. For example, many of the reports on the current cabinet's holdings talk about somebody with one share in a defunct company. We were constantly faced with trying to draw apart whether this was of some value or of no value. This is one simple but probably important thing that has to be done. I do not think any of us are talking about a conflict of interest when a share in a defunct company that is not worth any money is at question. That does not constitute a conflict of interest in my books. How do deal with that? Do we simply say that because someone did not declare the share, it is of no consequence? It a dollar value set on it? Do you say, "If it is defunct and worthless, get rid of it"?

16:30

Mr. Treleaven: Define the word "defunct." That word has to be defined before the question can be answered.

Mr. Chairman: The more important thing is, is it of any value now?

Mr. Treleaven: It might be a share in a corporation with only \$3 in the bank. You might say: "It is defunct. It has not done anything for five years." However, it might have a lot of potential. It might be worth quite a lot tomorrow.

Mr. Polsinelli: In dealing with these guidelines, we should keep clear in our minds the difference between a conflict of interest and a disclosure requirement. The existing guidelines and the Aird report deal with them differently. There are disclosure requirements and there are conflicts of interest.

A situation where an individual has one share in a defunct company, which he failed to disclose, would not necessarily be a conflict of interest, but perhaps might be a breach of the guidelines, or of the act if there is one, with respect to disclosure requirements. The discussion will run a little

more smoothly if we keep clear in our minds the difference between those two categories.

Mr. Chairman: A distinction has to be made. If we are talking about failure to disclose something of value, we get around the technical violation of the guidelines. If a person has a share of no value and does not disclose it, technically he breaks the guidelines. He was required to disclose all his assets and he did not.

The two situations need to be addressed. Is it a failure to disclose when it is of a relatively minor nature and of no consequence to us? We should be prepared to accommodate that. For example, you might own shares in a mining company that is not necessarily of great value right now, but the shares are being actively traded. They could escalate and there could be a conflict in the sense that you might be writing legislation that would make them escalate in value. There are those distinctions.

Let me take you through the recommendations of the report. I do not think there will be a lot of argument about some of these, but on some there might be.

Mr. Polsinelli: are you dealing with the larger document?

Mr. Chairman: No, this is the summary of the Aird report.

Mr. Polsinelli: Is it the summary of the draft conflict of interest proposed in the Aird report?

Mr. Chairman: No. This is the larger document on the report itself.

I will now go to page 3. I take it that the need for legislation is accepted in all quarters, the government having stated its intent and Mr. Aird having made it a major part of his report.

The second matter under the recommendations is a commissioner of compliance as that person is identified in the Aird report. That seems to be at the heart of the problems we will have to deal with. The commissioner is expected to do a great deal. It is also made clear in the report that they expect a very small staff, perhaps on a part-time basis. I am somewhat concerned about the practical aspects of that. It would be a lot of work for someone to go over everybody's assets on a regular basis, report regularly to the Legislature and deal with alleged conflicts.

I see two problems. First, the work may not be done well by a small staff. Second, I see a conflict problem there. If the commissioner advises members and members of the cabinet on how to stay within the guidelines and he is expected to arbitrate disputes at a later date, it seems to me that a year from now, he will be expected to argue against what he advised a year ago.

Mr. Polsinelli: This is much like the standing committee on public accounts having members who actually raised the conflict in the House in the first place and then they were adjudicating.

Mr. Chairman: Yes. There is a problem we will have to resolve in some way.

The third item is definition of spouses. As we talked about it last week, it becomes more and more confusing these days as to what a family unit

is, what the definition of a spouse is and how one can be responsible for all the age groups. There are a couple of ways to cut it that would simplify it: to use definitions under the Family Law Act or to use a simple definition such as the one outlined here.

The fourth area would be the functions of the commissioner. That person is being asked to do a great deal on blind trusts and outside activities.

Here is one that will cause us some problems: outside activities. The Aird report is specific. It was written to deal with the cabinet. There seems to be discussion in the report that the guidelines need to apply to all members of the assembly. It is easy enough to say, "A member cannot have any outside business activity." The more difficult part is, if that is extrapolated to all members of the assembly, the same rules would have to apply, and to be blunt about it, somebody at some point is going to have to deal with the compensation issue.

If a member is precluded by means of a law from earning outside income, even if this only refers to the cabinet, the compensation problem will, in all fairness, have to be dealt with. In other words, it is one thing to say, as we now do: "We are casual about this and if someone wants to come in here a couple of days a week and hold down a job somewhere else, his constituents will deal with it three years from now." If, by law, a member cannot have an outside income, it probably has to be defined to make sure somebody is not disqualified for accepting bookends for a speech somewhere. It has to be a little more specific.

Mr. Treleaven: People are not going to divest themselves of anything prior to winning a seat. Then there would have to be a period of time within which they would have to divest themselves of some assets. The crows would sit on the fence and wait for those assets to fall off at fire sale prices. A number of people are going to be elected and then resign and there will be some by-elections. If you own a farm and somebody says, "You have a drycleaning business," and you win an election, can you imagine the scavengers sitting around waiting for the business to go at a fire sale price because they know it has to be sold within 90 days or 120 days?

Mr. Mancini: I object to a person being a farmer, a lawyer and a member of the Legislature. That is too much.

Mr. Chairman: The use of information and position is obvious. Sanctions is another area where we are going to have to be a little more specific, rather than saying, "This is all political and it is at the discretion of the Premier."

Mr. Martel: Let us talk about the one about the jobs.

Mr. Chairman: I fail to see why a law would be needed if the end result is that it is all going to be left to the discretion of the Premier. The purpose of going from guidelines to a law is, more than anything else, to say, "Here is the legislative line that cannot be crossed." Whether a member crosses the line is not up to any political decision or the discretion of the Premier. The difference would be that, even in a technical sense, if someone broke these legislative guidelines, they would have broken a law. Up to this point, all they have done is to violate private cabinet guidelines. We are going to have to work with the distinction a little.

Lines would have to be drawn on ministers leaving public office and



those kinds of restraints. I would include in that, as we have in our previous discussions, ministers, senior civil servants and maybe even lobbyists.

Mr. Polsinelli: How about private members?

Mr. Chairman: Private members as well. There are practical ramifications to all of this.

Mr. Treleaven: Who are you going to get to run?

Mr. Martel: Farmers.

Mr. Chairman: This is what the Aird report says. These are its parameters.

Mr. Treleaven: Only those who have nothing better to do.

Mr. Chairman: You are really asking for trouble.

Mr. Mancini: It should concern everybody in the House.

Mr. Chairman: Let me quickly go through the summary of the conflict-of-interest act contained there. This is, in layman's language, what is proposed in the act. It might be useful to use it as a term of reference. This shorter document, which is called "Summary of the Draft Conflict-of-Interest Act Proposed in the Aird Report," ought to be a matter for your consideration.

Mr. Mancini: That was Aird's draft copy.

Mr. Chairman: The committee has the summary of the Aird report and the summary of the draft conflict-of-interest act. The purpose of the exercise this afternoon is to try to give staff enough direction so they can put together a draft report for next week's meeting. Are there any comments on either one?

16:40

Mr. Polsinelli: I read through the summary of the draft conflict-of-interest proposal and the draft report and I have difficulty with the blind trust provisions. If we look at recommendation 2, it says that "the trustee shall deal with the trust property without talking to the minister...the trustee cannot tell the minister of any assets of the trust property nor the sources of income of the trust, except the general classes of income." I have difficulty reconciling that with recommendations 6, 7 and 8, which put a clear obligation on the minister not to deal with the matter if it poses a conflict of interest for him. For example, number 6 says, "While a minister, the minister is obliged not to place him or herself in a conflict of interest. Specifically, a minister cannot use information acquired while performing ministerial functions for personal gain." Now that may be fine, but if the minister--

Mr. Martel: He can read.

Mr. Chairman: You have to ignore Martel.

Mr. Martel: I was just making the observation that Mr. Polsinelli can read.

Mr. Chairman: Ignore him.

Mr. Polsinelli: It is very difficult for me to ignore Mr. Martel because I have the greatest respect for the name of the guardian. When he talks, I listen.

In any event, I was merely indicating that it would be difficult to comply with number 6 if the minister does not know what he owns. Similarly, if we go to numbers 7 and 8, item 7 says the minister at a cabinet meeting "must disclose a conflict of interest." If the minister does not know what he owns, he cannot disclose that conflict. In number 8, the minister has to delegate the responsibility for making decisions if it falls within some place where he could possibly be in a conflict of interest. Again, the whole blind trust idea as proposed in item 2 would not give the minister the knowledge to be able to comply with these guidelines.

The whole area of a blind trust has to be examined very closely. I say as a preamble that this is off the top of my head without a great amount of consideration. It may be more important for us as members of the Legislature and for the people who elect us to know what we own and know what our assets are, to have very full and complete disclosure requirements tabled in the Legislature so that if we vote on a matter that creates a conflict of interest, we are accountable to the Legislature and the people who voted for us.

We can have a blind trust system where the minister does not know what he owns and cannot comply with the guidelines or we can have a system where full and frank disclosure of everything has to be made so that the minister is under an obligation, not only to comply with the guidelines but also to be monitored by his colleagues in the House and the public to determine whether he has complied with the guidelines. That could be an alternative way of handling this.

Personally, I am not quite sure which system I would prefer. I remember the hours of debate we had in the standing committee on public accounts when we were dealing with the alleged conflict of interest of Elinor Caplan. Even during that process, I do not think we resolved which would be the better system. It boils down to either a blind trust or full and frank disclosure so that the minister's disclosure and his activities and actions can be monitored by the people of Ontario and by his colleagues in the Legislature.

Mr. Chairman: Okay. Those are pertinent points. The Aird report accepts the idea of a blind trust. It tries to define them, regulate them and provide for monitoring them. The proposed act says there is a choice between a blind trust that follows these guidelines--it is a little tougher and clearer; it is monitored; they regulate who looks after the blind trust; all of that--or listing them all and disclosing them.

There is a fundamental choice that the committee has to make. Many of us who have looked at other jurisdictions would report that most places that have gone through this exercise have come to the same conclusion: You get to a disclosure system that is mandatory and that is public and that is as good as it gets. Any other device people have tried to use always seems to leave you open to question. You may not know how much you own, but somehow you made money from it. Simply, if somebody operates a blind trust on your behalf, you

may even be expecting him to take advantage of changes in government policy or legislative changes, because if he is expected to operate the blind trust in your best interest--

Mr. Treleaven: He is a trustee.

Mr. Chairman: He is a trustee and is expected to do that.

Many American jurisdictions have gone very heavily into disclosure provisions as being the critical ones. The disclosure becomes a matter of public record, and let the chips fall where they may. Your obligation as a member is to disclose publicly what you own, what your assets are, and the public can judge whether you have a conflict. That may be oversimplifying it, but that is my thumbnail sketch of the conclusions they have come to in most of the jurisdictions I have looked at. You can work at the blind trust idea or a whole lot of different concepts, but when it comes down to it, the one that holds up over time is disclosure. Everybody discloses what he owns.

I reread the congressional requirements to disclose. Wow. It is a foreign idea to Canadian politics that you would disclose at such length, that you would make it a matter of public record and open yourself up to that much scrutiny by other agencies. They accept that if I run for public office, the Federal Bureau of Investigation will do security checks on me and that if I hold a position, taxation people will run checks on me. They accept a lot of things that are different to us.

Mr. Mancini: It may be true that in the Congress they have all this public disclosure, but I cannot recall a single occasion where any of the major papers in Detroit has listed the assets of any senator, congressman or anybody in the city government. I cannot recall any newspaper saying this is what the congressman for the third district owns or does not own and this is what he owes or does not owe. They have got away from reporting that because they know the important thing is that it was disclosed to whomever it had to be disclosed in Washington and a check was done.

This brings me to point 5. What do the members think of that point?

Mr. Chairman: You cannot divide the two totally. You are going to talk about the blind trust concept, however cleaned up, doing the job, or you go to a complete public disclosure technique. I know it is jumping around a bit but it seems to me those are the two stark choices. You may not have seen it in the Detroit papers, but there was a woman named Geraldine Ferraro who ran for Vice-President of the United States. In the middle of a presidential campaign, one of the major things was, "Who owns these assets?" They were not hers. They were her husband's.

Mr. Mancini: We are talking about two different things. Ms. Ferraro and anybody else who seeks that kind of office is going to be under scrutiny that these other people are not going to be under it. For example, if you run for the leadership of your party, you are under a lot more scrutiny than you are today. That goes with the territory. The important thing is for disclosure to be made to whomever the commissioner is. As to whether Mr. Warner or Mr. Turner would like it published in the Peterborough Examiner that he has a \$600 car loan, that is something of a different nature.

Mr. Turner: It is something like \$6,000.

Mr. Mancini: Point 5 says the commissioner does not have to include



for public disclosure information relating to interest or liabilities valued at less than \$500. If he has a \$500 car loan, then it will not be published in the Peterborough Examiner. But if Mr. Warner has an \$800 car loan--since he has taken a cut in pay to become a member of the assembly, he probably has not been able to pay that off yet--then that would be in the Scarborough News or whatever. That could lead us to a significant point to debate. Is it important for items of that nature to be disclosed to the commissioner? That is one set of items.

16:50

Then you could have a second set of items that are disclosed to the commissioner and to the public. Certain things are important, and the public should know about them. Other things of a much more personal nature that are disclosed to the commissioner perhaps should not be for public consumption. For example, I am not sure we should have to disclose that we have a \$2,000 loan or that we have \$3,500 in bonds at a particular bank. I am not sure it is important for the public to know that, but it is important for the commissioner to have that information. We may want to concern ourselves with two different types of assets and liabilities. That is the point I am trying to make.

Mr. Dean: I have to agree with that as a matter of principle.

Mr. Treleaven: There are two points I would like to make. First, judging from the interest the press shows in our expense columns every June--they are attracted to them like a bear to honey--we can be quite sure that as soon as the disclosure statements are made, the press people will be down here to put them in their newspapers. That deals with Mr. Mancini's point.

Second, why do we not have some type of straw vote to see whether people are leaning towards a blind trust at this point or whether they are leaning towards disclosure? Can we have some type of straw vote rather than going around and around?

Mr. Chairman: It is a little premature for that. We have had one general discussion of all these principles. We are trying to get more focused. I do not want to preclude the blind trust, because Mr. Aird spends a lot of time on that, and I do not want to dismiss it out of hand. I would like us to keep it alive for a little while.

Mr. Treleaven: You might find the majority of the people here are in favour of a blind trust and you are hammering around with certain assumptions otherwise.

Mr. Chairman: To be a little more specific, Mr. Aird is saying two things. He is accepting that the disclosure principle is paramount, but he is not discarding the blind trust mechanism. In his report, they are not considered to be exclusive.

For whatever reason, I sense that we are straying around the map. Would it be helpful to go step by step through the summary of the conflict of interest act proposed in the draft report and test that water?

Mr. Polsinelli: Why do we not go through some of the recommendations item by item?

Mr. Mancini: I thought that was what we were doing.

Mr. Polsinelli: I thought you said the summary of the act.

Mr. Chairman: I will go through it item by item. I am going to go through the act because the act is Mr. Aird's concept of how his report would be implemented. That is about as specific as he gets.

We will use the short form; that is, the summary of the act that is proposed in the Aird report.

The first one would establish that, prior to being appointed, each prospective minister and spouse--and there is a definition--would meet with the commissioner. The commissioner's role at this point would be to explain the legislation and advise them how to comply with it.

One of the quick expansions of this, and one we are going to have to deal with sooner or later, is that disclosure provisions have been talked about for all members. It is very difficult if you wait until someone is appointed to the cabinet to have it done. That was part of the problem we dealt with this summer; no one quite knew what the expectations were. It happened in a flurry. All of a sudden, people who had never been members of the assembly were members of cabinet; things that should have been done were not done. It seemed to many of us that there was a lot of unfairness; the expectations were unreal.

Perhaps it would be fairer if all members had to fill out these definitions and everybody went through that process for a first run. Then if you suddenly get an appointment to cabinet, you would not be faced with 95 different sets of expectations.

Could I get some sense from you on whether this is the point where we would start the expansion process? Frankly, it seems to me you ought to start by saying that every member of the assembly will be caught in this act. You ought to say so now, get everybody used to this idea and send it through the whole legislative process.

Mr. Turner: I agree.

Mr. Polsinelli: I agree with that. As well, there are some provisions that should not apply to individual members. However, as a general concept, we should be looking at a conflict of interest act that applies to every member of the Legislature. Perhaps another area where this first point can be expanded is in the definition of "spouse." This definition does not contemplate a common law spouse.

Mr. Chairman: To interrupt for a second, John pointed out at a previous meeting--and I think it is something we have to accept--that if we try to do all these precise definitions, we will never get this done in a hurry. The committee suggested it would not be inappropriate for us to proceed at this point with broad definitions and perhaps to signal areas that need clarification or firmer points put on them. In drafting the legislation, the definition is sought; we do not say it is hard fact.

Mr. Polsinelli: That is all I was intending to do. I was agreeing with your statement that the act should apply generally to all members. Second, I was flagging the definition of "spouse," which in my opinion should

also cover a common law spouse. This definition does not. If you wish to discuss that at some future point, we may do so.

Mr. Turner: That is a good point.

Mr. Chairman: Is there anything else on this first point?

Mr. Warner: First, I agree that the conflict of interest act should apply to all members of the assembly. Claudio might agree that we would be better served by the definition of "spouse" that is in the Family Law Act.

Mr. Polsinelli: There are two definitions.

Mr. Warner: There is one in there that is commonly used throughout.

Something else that has to be considered in this is whether we are expanding it beyond the immediate family. You will be aware that Quebec legislation includes brothers and sisters and aunts and uncles. Apparently, they have not had much problem in including all those folks in their definition. It has to be considered.

Mr. Chairman: Is there anything else on the first item?

Mr. Dean: Is now the time to discuss whether will be something different or additional for members of the cabinet? This looks as though it is to apply to all members. The way it is explained, after they are elected, everybody more or less as a matter of course gets to visit the commissioner and so on. I recognize there would be problems if suddenly there were a switcheroo in the government more drastic than what happened in 1985 and somebody became a minister before he had a chance to do all this.

Mr. Chairman: I think we would like to ask John to take a whack at that, making any appropriate distinctions. For now, we are trying to establish that the legislation should apply to all members. I think we will have to do a separate section that tries to draw distinctions between all members and someone in the cabinet.

Mr. Dean: I would think so, because there certainly is a difference.

Mr. Treleaven: Are you thinking of putting full disclosure, blind trust and all this stuff on ordinary members?

Mr. Chairman: No. I think we will have to set that aside and return to it.

Mr. Treleaven: Okay.

Mr. Chairman: However, I think it is now clear that we want everybody to be covered by the law. We will try to draw the distinctions between ordinary members and the cabinet.

17:00

The second item is the one where Mr. Eichmanis has tried to explain the provisions under which Aird is recommending the use of a blind trust. We may be a little divided on whether the blind trust is worth pursuing, but Aird has it in his report and spends a great deal of time on trying to redefine that. This is his version of it. For today, I prefer that we leave it in, think



about what is in here and at next week's meetings we will decide if a blind trust is an appropriate vehicle under any conditions.

Mr. Polsinelli: I note, "The settlor can direct that the trustee not sell any of the trust property." If a minister decides to put all his assets in a blind trust, would he also have to meet the disclosure requirements initially?

Mr. Chairman: I would say the disclosure requirements are paramount, but I also have to observe that putting something in a blind trust, no matter how you cut it, means it is a blind trust. The public does not have a right to see that.

Mr. Turner: Nobody has.

Mr. Chairman: Yes. That is the conflict.

Mr. Polsinelli: Assuming the minister does not have to disclose some items in that trust, I see the difficulty as being that there is a potential area of abuse if the minister directs the trustee not to dispose of some assets. When he is the minister, he may take action that increases the value of those assets, while at the same time being protected because he has complied with the provisions of the act.

Mr. Chairman: The difficulty I still have with the blind trust concept is that you can clean it up and regulate it, but in the end, if someone raises an allegation that you have a conflict of interest, is it going to fly that you stand up and say, "That is in a blind trust, it is all wonderful and I have nothing to do with that?" Maybe a year ago I would have said yes, there is some gentlemanly agreement that we would never question the validity of that, but after our experiences in Canadian politics over the summer, I think that has gone the way of the dodo bird. I do not know that can happen any more.

Mr. Treleaven: While I do not like the idea of forcing someone to dispose of his assets--in other words, I like the idea of a blind trust--on the other hand, I see a lot of troubles with it. As Mr. Polsinelli pointed out, let us say you remove that clause about a person saying, "You cannot divest yourself of this asset." That means the minister knows exactly what form of asset it is always in. Therefore, remove that and do not allow it.

On the other hand, even if you make it an arm's-length trustee, such as the commissioner becoming the trustee, if I ended up out of politics 10 years after I became a minister and found out that trust fund was the same or diminished, instead of growing as it would have if it had been put in a savings account or Canada savings bonds, where it would have been expected to double in 10 years, I am going to sue this trustee.

Mr. Turner: That has happened.

Mr. Treleaven: I come out thinking I have enough to live on, and all of a sudden I have a turkey in the pot. He has made a real mess of it. I want somebody to sue. I see that as a problem with the blind trust again.

Mr. Dean: I am not sure the commissioner is the one to hold the trust. Mr. Treleaven's argument is that you would expect the trustee to be a prudent manager of the trust if he is exercising his duties there. If it is the commissioner, it depends on whom you appoint. If you are going to appoint

somebody from a well-qualified investment firm to be the commissioner, that might be one thing. If you are going to appoint someone who is experienced in public life and other things but not necessarily investments, you may have problems. The members should not have that kind of handicap placed on them by having their assets put in something which is not as well-managed as possible. I experienced it in a small way by being parliamentary assistant to the minister for a short while. My assets are not like Sinc Stevens's, for example.

Mr. Mancini: Elie's are.

Mr. Dean: Maybe Elie's are. I did not find there was an undue hardship in doing that. As far as I was concerned, a blind trust, with no direction--I have to be accurate and say that there was an annual statement of where things stood; so I was not blind completely in the sense of what it was in, but I had no management over it and I did not see that that was a hardship.

Mr. Treleaven: What was the purpose of the blind trust if you knew what the assets were?

Mr. Dean: I was not influencing them.

Mr. Chairman: That begs the other question. If your assets are considered to be your retirement fund, would you not be flagrantly disregarding the needs of you and your family if you put it in a blind trust and you never found out year by year what was happening to your family's retirement fund? That is the problem with it.

Mr. Treleaven: On the other hand, if he knew he put it in mining shares to start with and he got a statement each year on how his mining shares were doing and he was named the mining minister--

Mr. Dean: I did not; it was only Mr. Fontaine who did that.

Mr. Treleaven: --or if he was named to the Ministry of Government Services or many other portfolios that affected it, that is not what I would call a blind trust.

Mr. Chairman: I sense you are all struggling with that concept. Let me go to item 3 then; it says, "Within 30 days of assuming office the minister must disclose to the commissioner a private disclosure statement," containing the names and addresses of all the interests. If this provision were applicable to all members, this would already be done. You would not have this problem of conflict.

As we saw in our hearings, there were a number of occasions when people said, "I should have done that within six months or nine months but it never happened." This does not look like a bad provision, but we had a lot of problems with that during the course of the hearings. What looked like a reasonable thing became the subject of intense argument. If it does not apply to everybody and it is there from day one or very close to day one, you are always going to have those arguments.

The next one is item 4. This is a requirement that after you file the statements, you have to meet with the commissioner. I see the role of the commissioner piling up. If it is one person, this is going to be a challenge. It is not very practical to suggest that a part-time commissioner and two or three assistants will do that. It seems to me there is a large task being

rolled up here, and we are going to have to deal with the practical aspects of that.

Mr. Polsinelli: The logistics of it is that if he has to meet with 130 members and their spouses within 30 days, it is a pretty crammed schedule.

Mr. Martel: Wait a second. The first time around it becomes a problem but thereafter, even after a general election where you have 35 new members--I cannot recall how many members unloaded last time--the other people will already have their stuff in a blind trust if the legislation applies to everyone.

The only people you will have to go after for the first 30 days will be the new members or the new cabinet if they are new members. After the first time around, there will be a dossier somewhere on each member and what his or her assets or holdings are.

Mr. Polsinelli: Item 4 says he has to do it every year.

Mr. Martel: I understand that, but it says, "Within 30 days of filing the private disclosure statement, the minister and spouse will meet with the commissioner, and at least once a year...." That is not 30 days after an election; that is once during the year that he has to meet with everyone. The big problem in any of this will be the initial inquiry into each member; thereafter, while it is updating, it will be only new members in the Legislature who will be under the gun, particularly if they are going into cabinet on their first election.

Mr. Chairman: I want to point out to you that a lot of this depends on how you do this. If this means that each one of us, as a member, files a disclosure statement, that is a relatively simple, straightforward statement. As a matter of fact, each one of us has done that every year by filing an income tax form. If you ask me to do that, I could go into my own records, pull out my income tax statement and file that with the commissioner. That would not be a difficult task.

If you are providing for the use of blind trusts and other techniques of that nature, the more options you allow, the more complicated it becomes and the more players you draw into this. If you are asking me to file my last year's income tax statement, I can do that tomorrow morning. If you are asking me, my wife and two kids to file this disclosure, and if you are allowing me to use blind trusts and other techniques of that nature, what becomes a simple filing of pieces of paper that I already have is expanded very quickly into seven or eight people filing all kinds of documents.

17:10

From my point of view, the simpler, the better; the more straightforward, the better; the fewer options, the better. That is going to be the trick. If we are to do this and expedite the process, there has to be some hope that we can actually do it. That will be a problem. If a very fancy system is devised, with a number of options capturing a whole lot of people, the paperwork will be immense. The Commission on Election Finances takes every little minutia from everybody's campaign and annual report and files it; so it can be done.

Mr. Mancini: They have a pretty sizeable office.



Mr. Chairman: They have a sizeable staff. That is one problem.

The next point is generally a given. In some way, a public disclosure statement based on all this information is eventually gathered up and tabled somewhere, most of us would say with the office of the Clerk. If there is a description of the commissioner's role initially, it would be to gather up all these statements, which perhaps would be private statements, make the public disclosure and file it with the Clerk.

For practical purposes, if I were allowed to use all the resources available to the Commission on Election Finances to advise me and if the commissioner's job was to take all those statements prepared with that advice and file them with the Clerk, that staff could be relatively small. However, I would need access to the election finances commission staff or some other staff of some size. You have to do that somehow.

Is there any argument--I am asking the question--that a major part of what would happen is that the commissioner would table something that would be a public document with the Clerk? That is one of the prime aims of the process.

Mr. Martel: Remember that \$500 figure at the bottom. I just listened to Mr. Treleven tell us that even if you have one or two shares and they were not worth very much now, what is their potential? He draws the limit at anything less than \$500.

Mr. Chairman: It is open to argument. I know this is where we get into trouble, but I do not want to be bothered with everybody's \$2 worth of this and \$5 worth of that. I do not want to be bothered with somebody who says he went to speak to a group and it gave him \$75 for expense money. I think you have to pick an arbitrary number, \$500, \$1,000 or whatever you want to pick, and say that if there are small amounts such as this, you do not have to disclose them. I know this is a problem.

Mr. Mancini: Five hundred is a pretty low number.

Mr. Chairman: It will be an arbitrary thing, at any rate.

Mr. Mancini: It would have driven somebody like René crazy.

Mr. Chairman: I may be wrong, but my sense of it is that I do not want to be bothered with conflict-of-interest allegations, hearings, inquiries or anything such as that over what are relatively small amounts of money. I think it is possible for us to do that.

Mr. Mancini: The chairman can make it known to the commissioner and not necessarily make it known to everybody else.

Mr. Chairman: The problem I have with that is, what if I filed my disclosure statement and I forgot about \$50 that somebody gave me for gas money to go somewhere to give a speech? If I did not file it in my private statement to the commissioner, I broke the guidelines.

Mr. Polsinelli: Not even \$50. What if they give you a memento worth \$50? What if they give you a book?

Mr. Chairman: Or next week you accept an invitation to dinner from the denturists, the dentists, the chiropractors, or whoever is throwing a

dinner that week, and the dinner is worth \$25, or the way you guys go at it, \$100?

Mr. Mancini: Or the way the socialists go at it, \$200.

Mr. Chairman: I think we are generally in agreement that we want some provision that says there will be an exclusion for small amounts of money or small totals.

Mr. Polsinelli: Perhaps you can tie it in to associations too, a certain amount of money per organization. I am thinking specifically of your example, Mr. Chairman, where you indicated you go on a speaking engagement and they give you \$75 or a memento. If you go to the same organization 50 times during the year and it gives you \$100 each time, that is different from going to 20 different organizations and each gives you a memento worth \$50. I leave that for your consideration.

Mr. Chairman: Yes, but I think we are generally in agreement that there has to be some clause that says bookends do not count.

Mr. Polsinelli: Fair enough.

Mr. Chairman: The next item is to put an obligation on ministers, and I guess we are saying members too, that lays out the conflict of interest that we all might at some time agree on.

There is not a bad run at that in here. I do not know how much farther you can go with this. In my own experience, I do not deem it to be a conflict of interest that I go to a large number of labour schools to talk about the political process, labour laws and all that and then subsequently come here to vote on these laws. I see that as part of my job, just as last week when I met with the funeral services directors. They did not give me anything. They did not have anything I wanted in particular.

Mr. Martel: Did they give you a coupon?

Mr. Chairman: No, no coupons. No souvenir caskets. Nothing.

Mr. Dean: Did they give you an urn?

Mr. Chairman: No. I did not ask for Ernie or any of those guys.

Some run at this has to be made. The basic attempt is to define a conflict and how you would spell it out. It seems to me the obligation is on the member or the minister to declare the conflict in some manner.

Mr. Turner: Surely somebody has to accept some personal responsibility.

Mr. Chairman: Yes. I do not think you can get away from that.

Mr. Warner: It should apply to all members. There is a potential conflict if you are the director of a corporation that does business with the government and you are a member of the assembly at the same time. If I read this section correctly, it is trying to avoid conflicts that can arise because of business transactions.

It should also apply to senior civil servants. Whether or not that is already attended to in other legislation--

Mr. Chairman: We discussed that earlier.

Mr. Polsinelli: I agree with Mr. Warner. This provision, with certain modifications, should apply to all members. If a member is a director of a corporation, then that member should not lobby the government to obtain goods for that corporation. If you own shares in a corporation, you should not lobby the government or use your influence as a member to obtain personal gain, either as a shareholder or as a director.

However, with respect to this recommendation, I do not agree all members should not conduct an outside business. The reality of this job is that many members have outside interests and actually give up pay or remuneration to serve the Legislature. There are a number of lawyers in this House who still carry on a very limited outside practice. I do not agree that once you become a member of this Legislature, as a regular member you should give up all your outside interests, with the large caveat, however, that anything you do as a member of this assembly cannot result in a personal gain. That is wrong.

That is why this recommendation should be split.

17:20

Mr. Chairman: If I could comment on it briefly, and to respond to Mr. Polsinelli, this is something we must deal with. We have to try in a broad, general way to get this down to the point where we are determining what is acceptable.

For example, I do not have a huge practical problem with somebody holding an afternoon job or getting paid for doing some work somewhere. On the other hand, and I do not do it, it is possible that people would be willing to pay me on a retainer basis for advising them on conflict-of-interest legislation, as an example.

I know 11 people who, if they wanted to make money on the side, sat on a committee all summer long and have developed a certain reluctant expertise in the field. We have a marketable skill if we wanted to go out tomorrow morning and put a small, dignified ad in the Globe and Mail that says, "If you want advice on how to deal with governments, see me. Here is my phone number."

We have to draw some lines there. I do not believe that would be appropriate.

Mr. Mancini: I do not think we could do that.

Mr. Turner: Not at present.

Mr. Chairman: I not only think you can do that, but I also know it is being done.

Mr. Turner: It is wrong.

Mr. Chairman: Then we have to say that. We have to make a clearer definition of what is appropriate for a member to do and what is not. To put



it bluntly, I know it is already being done in this assembly; we have to identify what is acceptable and what is not.

Mr. Dean: I think the kind of business is one that does a transaction with the government. Will that fill the bill or are there drawbacks to that?

Mr. Chairman: I guess we have a multitude of definitions. I belong to a credit union. I do not think I have a big conflict of interest when we discuss Bill 131, which makes credit unions pay a business tax. However, if I were accepting a gratuity of \$1,000 from the credit unions of Ontario, the caisses populaires or some other agency, it seems to me I have stepped over the line. I am accepting payment for what in reality is doing my job as a member of the Legislature.

Mr. Polsinelli: What if you had been retained by the credit union to lobby the government vis-à-vis that bill? Clearly, you would be in a conflict of interest there, and we would not want private members to be able to do that.

Mr. Chairman: No. We have to deal with the reality that as long as the economic circumstances of members of the assembly are somewhat limited, if I may be polite, there will be a trend towards more and more people who have mortgages to meet looking for innovative ways to add to the family income. If there is nothing that says it is illegal--and there is not now--this will happen.

Mr. Mancini: Let us try to be a little clearer to see whether we can get right to the point a little better. Are you telling me that right now, as of this moment, it is legal for any one of us to advertise his abilities and say to agencies or groups that are interested that he is in a position to be a lobbyist for them with the government?

Mr. Warner: That is pretty close.

Mr. Chairman: It is being done.

Mr. Turner: There is nothing to stop you from doing it.

Mr. Chairman: There is nothing to stop you from doing it for a fee.

Mr. Turner: Except your own ethics.

Mr. Polsinelli: Unless you are a minister or a parliamentary assistant.

Mr. Mancini: Those provisions hold for ministers and parliamentary assistants.

Mr. Chairman: It is not illegal. It is not a widespread practice, but it is happening.

Mr. Polsinelli: You would not be able to do it, because there are guidelines covering parliamentary assistants, but Mike and David would be able to do it.

Mr. Chairman: The fact that we would be writing a law that addresses this problem would make it, for the first time in the history of Ontario, illegal for a member to do certain things. We have to be mindful that this is

a whole lot different from breaking the gentleman's agreement that you should not do this or that it is inappropriate behaviour to do this. That is the distinction we have to be aware of.

Mr. Warner: Claudio mentioned it, and I would like us to be very clear in our response to the Aird report on the question of outside employment and, if I may be so bold to say so on the record, the question of our remuneration, because they are linked.

It is reasonable that the electorate should expect the person it elected is here to serve in a full-time capacity and is not showing up at Queen's Park on a casual basis and, in the meantime, is pursuing another occupation. A number of names come to mind immediately among the present House members. In doing that, however, if we are to be very strict in saying that members are expected to have one job and one job only, to represent their riding at Queen's Park, in return, there should be a salary that accurately reflects the responsibility and the hours. We do not have that. Those two are linked, but there should be a statement.

Part of what Aird is saying is that you declare everything and clear away possible conflicts of interest. It seems to me that part of the clearing away is having one job, the one you are elected to fill. However, there should be a salary that accurately reflects our responsibilities and hours spent.

Mr. Dean: You cannot put that with this.

Mr. Turner: That would be very difficult to deal with. It would considerably restrict any government conflict.

Mr. Chairman: We have to get at one problem, and we are probably going to have to deal with it one way or the other, now or later. If by law you restrict the freedoms of the members to earn money elsewhere in any sense--I remind you, if we all decided to become one-day-a-week members of the assembly and four-days-a-week lawyers, teachers, consultants or whatever, we are quite free to do that.

Mr. Dean: It would speed up some of the Legislature's procedures.

Mr. Chairman: It might and it might not.

You are going to have to address that. It goes back to an earlier point. The more opportunity you provide for members to be employed in an outside job and to receive a salary outside of their legislative duties, the more difficult it becomes to write conflict-of-interest laws.

Mr. Martel: I can remember when I first came here, and I suppose my friend Mr. Newman can too, that a lot of people were trying to do some outside work. As the job became progressively heavier, the number of people who retained outside jobs diminished.

However, I know people around here do not like to talk about salaries. Mr. Cassidy and I have been the only two castigated because we had the effrontery to say it up front. You may want to go back and check Hansard when some Tories heaped all over us and Bill Davis threatened to call an election over it, silly twit.

It has now reached the point where we have turned the bend. All those guys who were living well when they were in cabinet are now outside working,

because they cannot survive in here at what they think should be the standard of living they established.

The irritation for me is that I do not have enough hours in the day as it is. Most of us work long hours here and then we go home, and yet some people can hold outside jobs. How are they protecting the interests of their constituents and the constituency they were elected to represent? Most of us go full out every day, and yet you get people--I do not have to name names--selling insurance, appearing in the courts, acting in the courts, selling stocks and bonds and everything else. How in the hell do they do it?

Mr. Morin: That is very close to naming names.

Mr. Martel: I do not need names, but if you want to check the record, you can go out and check. However, are they representing their constituents?

Mr. Turner: No.

Mr. Martel: That is right. I think we have to put it in. You are either in or you are out. I do not have to tell my friends across the way that some people have a flair for getting their names in the newspaper, and they might have shown up for only two days a week for 10 years.

Mr. Mancini: Who is that, Dave Cooke?

Mr. Martel: No. I am not going to name names, but some people who managed it appeared here for years on two days a week, Thursdays and Tuesdays. They are doing their constituents a disservice. Because they happen to be glib or smart and get their names in the newspaper, they get elected, and it is unfair to the people they represent. Therefore, I think we have to put in this report that either you are in or you are out. It is as simple as that. If you do not want to come here and serve the public, then do not be here.

Mr. Dean: Somewhere you have to leave room for personal ethics and principles to be involved. I do not think you can specifically tie everybody down tight. Perhaps member X has a host of people working for him, and he may represent his constituents just as well as you and I do by spending our full time at it.

17:30

Mr. Martel: Nobody can con me into that. You cannot look after your constituents when you work two days a week. I do not care how you cut it and how much staff you have; you cannot do it.

Mr. Dean: It is possible some people have a talent to do that.

Mr. Chairman: This is not really the point. When we move through legislation to restrict the incomes of members or the ways in which members are allowed to get outside income, it is no longer a member's choice. As it is now, you can get elected and never show up here or show up at your pleasure and you continue with whatever activities you want. By moving to legislation, the major difference is that we take it away entirely from the discretion of the member and we write it in law.

Mr. Polsinelli: You do a little more than that. The real issue here is public accountability. When we talk about the legislative process in this



province and in this country, we are truly accountable only to our electorate. Mr. Martel points out that he or the Legislature is in a better position to judge whether I am doing my job as a member. I consider that to be an insult to my electorate. He is saying that you, as a member of this Legislature, should put restrictions on what I can and cannot do, and that my electorate, the people who chose to send me here, is not sophisticated enough to determine at the next election that I have not been serving it appropriately and therefore should not be returned. I completely disagree with that.

Mr. Chairman: Let me stop you there because we are going to have to deal with this next problem. The electorate's choice goes out the window the moment we provide a law that says we can do this but we cannot do that.

Mr. Polsinelli: That is why there is the larger philosophical principle of who we are accountable to. Are we truly accountable to the people who elect us, the people of Ontario, or are we accountable to each other? That seems to be the fundamental principle. I choose to be accountable to my electorate. I choose to respond to them at re-election time. When they write to me, I respond to them regarding my activities. However, that does not mean I do not have a fiduciary duty to them to do an appropriate job and to ensure that in my service as a parliamentary assistant, or as a minister if I ever have the opportunity or as a member of this Legislature, I do not abuse that for personal gain.

When we talk about outside employment and assets and my activities as a member of this Legislature, I wholeheartedly endorse the principle that there should be legal restrictions on my abilities so that I will not abuse my privileges as a member of this Legislature for personal gain. That would be an abuse of process. However, when another member tells me I cannot make my own decisions as to whether I should act as a solicitor in a pro bono case for one of my constituents, or that rather than charging him \$50 I have to charge him nothing because I cannot have any outside employment, or that \$50,000 a year is sufficient to live on, I completely disagree with that.

I am accountable to the people who elected me. Part of that accountability entails a fiduciary duty on my part to them to respect my position and not to abuse it for personal gain. If I do not do my job, then I hope to be turfed out when the next election comes.

Mr. Chairman: However, the distinction you will have to make the moment a law is passed is that because there is a law, you will lose a lot of the freedom you now have. Your constituents will not be the only ones to decide whether you can or cannot do something.

Mr. Polsinelli: Exactly. That is the point I raised. It is a philosophical argument as to who we are truly accountable to. Irrespective of that philosophical argument, I agree that ministers should not have any outside employment. I am willing to make that compromise. As a minister and member of the executive council, one should do it with 100 per cent of one's time. However, as a private member, I disagree with the proposition that has been brought forward by Mr. Martel.

Mr. Chairman: Okay. Let me try to bump you along so we can--

Mr. Martel: I find what my friend has just said a bit offensive. I have watched this happen over the years. I do not charge for the service I provide because I am paid as a member of the Legislature, but I know a substantial number of lawyers who have. There is no conflict; they do it

legally. Because they are MPPs and they are known, they attract business. People go there and the lawyer ends up charging for a service that the rest of us would do for nothing.

Mr. Turner: No. That is not absolutely true.

Mr. Martel: It is true.

Mr. Turner: No.

Mr. Martel: Baloney. You go down there and see a lawyer who signs a letter as a notary public. You and I would sign the same damn thing for nothing.

Mr. Turner: Most lawyers do too.

Mr. Polsinelli: You are not a notary public.

Mr. Martel: I can sign any document--

Mr. Turner: As a commissioner.

Mr. Martel: You are damn right.

Mr. Polsinelli: Yes, but you are not a notary public.

Mr. Martel: Okay, but I can sign the same thing. When you walk into a lawyer's office, he charges you when he is a sitting member of the Legislature or he sends you to another lawyer so that lawyer can make some money. Do not tell me that is not a conflict about your role. This crap that you can represent people--I know people who sat for years and who were hardly in this Legislature at all. Do not tell me how sophisticated the public is.

Mr. Polsinelli: Are they still here?

Mr. Martel: The guy gets his name in the newspaper every second day.

Mr. Polsinelli: Perhaps he should not, but you are not the one who should decide that.

Mr. Martel: The folks back home think he is here and he is not here.

Mr. Turner: That is not your responsibility.

Mr. Polsinelli: That is not your responsibility.

Mr. Martel: Whose responsibility is it to protect the public?

Mr. Polsinelli: It is the public's responsibility to know.

Interjections.

Mr. Chairman: I see there is a consensus forming and we will have no problem--

Mr. Polsinelli: I would like to respond to some of Mr. Martel's--

Mr. Chairman: I would not like you to respond, so stick it in your ear and do it again another time. Let us go on to the next one.

Mr. Dean: That is all wet.

Mr. Martel: You may think I am all wet, but if you think I am kidding or it does not happen, there is something wrong with your head.

Mr. Mancini: I agree with Elie.

Mr. Chairman: When Mancini and Martel agree, we should all stand back in wonderment.

Mr. Dean: Will we be coming back to this one?

Interjection: No.

Mr. Chairman: We have consensus and I do not know why we would return to it. The next one talks about the practical mechanisms of disclosing a conflict.

Interjection: Do not give me this crap.

Mr. Chairman: "Crap" is unparliamentary.

The next one is the provision for ministers, in particular, to withdraw from voting or participating in discussions. John indicates it is true that if you were an ordinary member you could not do that during a meeting of cabinet, but there are some provisions in the standing orders for members to do that as well.

It seems that part of the process is going to be that if all members have to disclose, as we have said, we will also have to provide the means whereby members declare an interest. We are involved in the thorny problem we have under municipal conflict; we now have a disturbing trend of people finding a conflict to avoid voting on matters.

Therefore, we have to do a little thinking about this. Essentially, the current provisions under the guidelines say that if you are a member of the cabinet and something comes before you, you cannot vote on it and how you would handle it. The next one is probably an extension of that, and the same kinds of things would go through.

Mr. Martel: Is that a regulation or do you want it right in the act? You are right; there is a problem. Let me give you an example. Teachers, except me, voted on a pension scheme recently. It grieves me sorely to realize--

Mr. Chairman: That was Thursday afternoon and you were not here.

Mr. Martel: I was here. That plan cost me \$9,000 in pension by missing me by three months, but I would not go and vote on it. I did not take part in the discussion, but it was painful. We have to have a way for members to indicate a conflict and I do not know whether you want to do it by regulation. It is like farmers. They get in the House and they vote on a variety of packages that could be of substantial benefit to them.



17:40

Mr. Chairman: There is going to be an obligation on our part to define what is appropriate and what is not. I would rather see it done by us in the report, even if it is in very broad terms, than leave it up to somebody else to draw a regulation later. We have to set the tenor of where we see the conflicts and how to handle them. We would be remiss in our duty if we did not get to the practical stuff of a farmer who votes on a farm bill, a teacher who votes on a teachers' superannuation commission or a lawyer who votes on Queen's counsel appointments and how to try to draw those guidelines. We do not have to draw the regulations but we have to set the principles from which regulations might be done. That is going to have to be done

Mr. Martel: Yes, probably by regulation would be easier.

Mr. Chairman: In our report we have to set the tone.

Mr. Polsinelli: If we are talking about regulations, we should perhaps also consider that regulations are drawn up by the executive council without the input of the Legislative Assembly. Since this is an act that we hope will impact on all members of the assembly, the powers to make regulations should be severely limited.

Mr. Martel: A number of years ago, a report presented here recommended that as in Ottawa, where the statutory instruments committee drafts the regulations, all regulations should go through a committee to make sure they do not conflict with the legislation. When we were visiting in Ottawa, the former Minister of National Defence, Mr. Coates, was the chairman of the committee. In Ottawa there is a committee that regulations go through. Here we have adopted just the opposite practice, despite some recommendations. Here, is it not that a bunch of people holding public administration degrees go through the regulations?

Mr. Chairman: Mr. Polsinelli has a good point in the sense that if you leave it totally up to a regulatory agency, you may wind up with regulations that none of us as members ever see until they are in law. That may turn out to be something that is totally unacceptable. There is a need for us in our report to lay the broad brush to it and subsequently in legislation to put in some mechanism that provides for review, notification and all that. If we leave it up totally to being done by regulation or cabinet, if it were of a mind, it would not be hard to lay some traps for members and just pull it in at the last moment. You would have a dozen or so members in one fell swoop breaking a regulation they had never read.

Mr. Martel: Unless we also flag that the regulations should adopt the procedure in Ottawa, where opposition people are on that committee. It is not so much to adopt new regulations as to make sure the regulations conform to the legislation without any swift changes.

Mr. Chairman: Okay. We have flagged a problem there.

Point 9 talks about what you do when you leave the cabinet or what you do afterwards. Again, I sense this is really dealing with the lobbying aspect. Why do we not just say lobbying is a no-no for members while they are members, after they are members for a set period, and for deputy ministers, and try to identify that. There is a problem with just saying a person has to file as

being a lobbyist or something such as that. Our experiences over the summer ought to have taught us some lessons in that regard.

Mr. Polsinelli: Even if this were to apply to all members, it does not deal only with lobbying. It deals with just about any type of economic benefit that is derived through a government contract. I have difficulty accepting this recommendation as it is worded.

I know lawyers best, so let us take a lawyer who is a former member of the Legislature. Does this mean he cannot do any government business at all for one year? That may be appropriate if a lawyer is acting as an individual lawyer in private practice, but what if he joins one of the larger downtown law firms that has 50 or 100 lawyers who do regular government work? The extension of that would mean the firm would not be able to do any work.

In flagging this, I raise the issue without determining it one way or the other, of how much we want to impede a former member's livelihood after he leaves this assembly. We all recognize that there can be a monetary sacrifice in coming here. Some of us do; some of us do not. How much should that sacrifice carry on when we are no longer members of this Legislature? The difficulty is with some professionals. That should be a priority.

Mr. Chairman: In large measure, the trick will be to define the terms. What is a lobbyist? What is meant by that? The time frame seems to be the provision that most people go at. I am not sure it is the most appropriate way but it is the accepted practice.

It also occurs to me that there are a number of members who would be in a position to go into consulting, for example. They might not specifically be getting grants for companies, although they might, but they might just be offering their services on the free market. They have a knowledge of how the civil service works, who the ministers are and which member might take a cause through committee. They have something saleable. More and more, there is a trend for members to do that. That is the thing they have to sell. More and more, former members are selling it. There are no rules, regulations or restrictions on them now. We are going to have to address ourselves to that.

Mr. Martel: Even Ottawa is talking about top civil servants not being able to do it for a couple of years. How can it be suggested that a top civil servant may not do it, but a former member or cabinet minister may? There is such a thing as influence peddling, whether we like to call it that or not. I worry about some guy who knows what is going on getting out there within the first 12 months. After being out of this zoo for 12 months, you start to lose what is going on in the day-to-day operations. We have to have a time frame somewhere along the line.

I remember one cabinet minister leaving here and immediately going on the board of a corporation as a lobbyist. Some of us found it a little offensive. The guy was a super guy; I am not suggesting there was anything insidious about it. Surely one cannot go back to lobbying the ministry you have just left as a minister.

Polsinelli: We have a balancing act to go through with the purification period required after a member leaves. We have to balance individual rights. A recommendation such as this applying to all members would effectively preclude many members of this House from earning a livelihood after they leave. For ministers, we may want to define what they can and cannot do within a 12-month period. For a minister who has served in a

particular ministry, we might want to say that during the 12-month period he cannot deal with that ministry. This is off the top of my head, but we will have to accomplish a fine balancing act.

Mr. Martel: I do not want to disagree with my friend. We cannot deprive a guy of a livelihood, but I worry about him going back to the area for which he was responsible. That might be the exclusion you put in, whatever it is.

Mr. Chairman: One of the practices I find a little disturbing involves senior federal civil servants who I know. The moment they retire, they go into consulting. They double their income. For a fairly lengthy period of time, they know how a ministry or a department works. They are invaluable to the private sector at leading the way through a maze and at being able to lean on people. They will be talking to people who were working directly for them six months previously. I know it is awkward but we have to take a shot at this. It is a totally unregulated field in Ontario and we have to draw the lines, however tough they might be. I do not think it is going to be easy.

The next series provides a minister or a member with the opportunity to seek advice. If you think something might be construed as improper at a later date, you would have the right, as a member, to call up the commissioner or someone on his staff and say: "I have an invitation to do this, this and this. Would that be appropriate or not?" He would be able to give you advice in confidence. This is a technique that Quebec uses a lot. It has an in-house person who advises members, and from reports I have had, it seems to work reasonably well.

17:50

Mr. Turner: That is reasonable.

Mr. Chairman: Items 10 and 11 are basically how the members or the ministers would be able to use the services of the commissioner or that office.

Item 12 gets into the provisions for when there has been an allegation. We are not terribly sure this solves a lot of problems. Would it be accepted by members here that a member raises a conflict allegation and the Premier rises to say: "We cannot talk about that today. I am aware of that and I have asked the commissioner to make a report, but that report and inquiry will be totally in confidence"? In other words, "Do not worry, boys, I am looking after it." Is that an acceptable proposition? I am not convinced it is.

Mr. Martel: No, and might I say it is the thing that bothers me most. For example, in one of the conflicts we looked at this summer, I think the Premier answered in good faith. Some of his staff did not give him all the facts. That puts him in a bad position. I am not sure he wants that authority.

We have to find some mechanism to get a handle on it. I am sure some people got their heads kicked in this summer when we reflected on some of the statements made by the Premier (Mr. Peterson). They did not stand up to scrutiny. I am not suggesting for a moment that the Premier was trying to mislead anyone; I am suggesting that some of his staff had not given him all the facts. If that occurs, we are in serious trouble unless we continue to pound away at it in the House. I am not sure anyone is interested in embarrassing anyone in that sense. We have to find a different mechanism. I am not happy with that at all.



Mr. Chairman: It seems to me that the last three items beg the question of how to handle it when a conflict allegation is made. These are, in essence, what the draft law proposes. I am pointing out that we will have to do a little work on this. I am not sure it is acceptable to say, "An allegation has been made, but we cannot do anything more about it, because it is under investigation by somebody." You might get away with that if you had a quick response time, if you said that, once an allegation has been made, the commissioner must report to the Premier in 10 days or to the Legislature in two weeks or something like that. There is a bit of a problem here.

Mr. Martel: Look at item 14.

Mr. Chairman: Let me go through. Item 12 is the provision which says that when an allegation has been made, the Premier has the right to ask for an investigation. It seems to me that it has to be expanded. If we were talking about all members, I would not like to see, for example, a government back-bench member get up and make an allegation against an opposition member and have the Premier say: "I would like to see these guys squirm for the next six months. I do not have to do anything; I will just ask the commissioner to make a report." It seems to me it has to be fair on all sides, maybe with a time frame or something like that. Let me go through these and then we will argue them, because I think they are connected.

The second one, item 13, says, "When the commissioner conducts an inquiry into a possible conflict...on his or her own initiative, or when asked by the assembly," then he reports to the Speaker. In a minority situation it is easy to look at this and say that if the majority of members think some allegation is worth looking at, the assembly will do that. In the previous one we said the Premier also had a right to do it. It seems to me that we have to combine those two. It should be the assembly itself that is the triggering mechanism, and there is a problem with that too.

The last one needs to be clarified. It is not clear to me in this law or in the report whether, after the commissioner does his investigation and tables a report, a committee of the Legislature is expected to pick that up or, in fact, can pick it up. That needs to be clarified.

Let me run this scenario by you, which is the closest I can come to resolving this: The assembly, by a motion, maybe, or by a request of a certain number of members can cause something to be referred to the commissioner. The commissioner prepares a report, and we would all accept--and this would have to be a given--that the commissioner has the right to establish the parameters of the investigation and to table a report that says something is right, wrong or whatever. That report could then be referred to a committee, where the political appropriateness of the actions of the member are discussed. That a committee can do.

The problem I have is that our current experience has committees of the Legislature doing a lot of investigative work for which they are poorly equipped, turning into forums that they are unaccustomed to dealing with. I do not want to be an expert on who broke what conflict laws; I do not think any of us do. I do not want to be here to spend a whole lot of time discussing, as we did this summer, whether somebody's behaviour was appropriate. We are a poor vehicle for that.

In contrast, the Stevens inquiry has a \$3-million pricetag. I understand that the federal government would say, "We have hired this inquiry and it is at work, so to balance it we have to pay out \$350,000 to have somebody

represent the member." In my constituency I find this a totally indefensible concept. I understand how you get there, but the unfairness is startling for somebody who is trying to get a legal aid certificate and cannot get \$100 worth of legal services, while some politician can command \$350,000 to defend himself in front of an inquiry.

Mr. Turner: You find the same conflict at the municipal level in some cases.

Mr. Chairman: In these last three points it is not well sorted out how you would decide what is fair, what is not fair and what are the triggering mechanisms. It does not address, for example, the scope and size of the commissioner's inquiry. Under this proposal, is the commissioner entitled to set up a \$3-million operation? That sounds ridiculous, but every time a royal commission turns around, that is the ball-park figure: \$3 million, \$5 million, \$6 million. Cost is not a consideration.

Mr. Martel: What worries me is that the commissioner who has looked at everybody, gone through all the records and set it all out is then asked to conduct an inquiry. He is judge and jury. It blows my mind that he is going to do both things.

Mr. Chairman: That is the other problem, which I brought out earlier.

Mr. Polsinelli: That is like Phil Gillies sitting on the standing committee on public accounts or Andy Brandt sitting on the standing committee on the Legislative Assembly. It is something that has to be discussed when you are dealing with the powers of the commissioner and how he goes about conducting his investigation. I would like to make a comment on these last few points.

Mr. Chairman: Just before you get started, one other thing you will have to fit in here somewhere is that all through this the commissioner is the agent named to advise, to file papers and to sort out, even in the previous ones, where there is something that falls between the cracks. Now you are having the same person conduct the investigation into the allegation. I find that unacceptable. Somehow we have to sort the two out. Some agency has to be available for consultation, for filing the papers, for all that. Then if you want to have the commissioner of inquiry sit in on conflicts that are raised, that is all right, but it cannot be the same group. An arm's-length relationship has to be established, and I do not think it is quite there.

Mr. Morin: If the guidelines are well prepared and well organized, the commissioner's job will be limited.

Mr. Chairman: Maybe.

Mr. Morin: The cost that you referred to may not apply.

Mr. Polsinelli: I was going to suggest something in terms of the report. You were talking about item 12 where, if the Premier asks for a report, it will be confidential to the Premier. Perhaps one of the things you can consider in deciding whether the report is a confidential document is how the report originated. If a private member asks for a report on his own affairs, perhaps it should be confidential; if the Premier asks for a report on one of his members, perhaps it should be confidential. However, if the

request comes from the Legislative Assembly, then perhaps the report should be tabled in the Legislative Assembly.

Mr. Martel: But you will not get that. You cannot get that sort of thing with a majority government. The majority simply says no.

Mr. Turner: You cannot until somebody asks for it.

Mr. Martel: All I am saying is that you will get that in a minority situation, but you will not get it in a majority situation.

Mr. Polsinelli: Mr. Martel, in a majority situation, if an allegation of a conflict is made by an opposition party and if the governing party does not agree to an investigation, you can hammer the governing party every day until it agrees. If the governing party does agree, then basically you have to keep quiet until the report comes down. There is a political pressure that is put on it to agree to consent to having--

Mr. Martel: We are trying to get away from the political exercise of hammering the hell out of somebody in the House. I was just saying that there has to be an active mechanism in place for investigating. Does it boil down to having to pound somebody in the head?

Mr. Polsinelli: This is how you would get away from it: If you raise an allegation of my having contravened the act and if the Premier says he is not going to request that an investigation be undertaken, you can hammer at the Premier and me every day. As soon as the Premier says, "All right, we will consent to the assembly's requesting an investigation," then you are precluded from asking any further questions until the report is tabled. If I, as an individual, request an opinion on a particular conduct that I have undertaken, just because I make that request does not mean it should be tabled for everybody.

Mr. Martel: I just worry about it because I think you have to have it tough enough so that people do not get up and make frivolous accusations. At the same time, we have seen a majority situation over the years where in a couple of instances there should have been inquiries but, come hell or high water, we did not get them.

Mr. Turner: Yes, but I think this legislation would provide for that.

Mr. Martel: What triggers it if the Premier does not want to?

Mr. Chairman: Yes, there has to be a mechanism in there that everybody would see as being fair. If it is in the hands of the Premier's office, it is not going to work.

In conversation, Quebec appears to have found something that the members find acceptable. One can seek advice from its equivalent of the commissioner, and everybody accepts that one is seeking advice on this and it does not get pursued. I would be interested in seeing how that is sustained over time. Our experience has been a little different.

We have had one runthrough. At next week's meeting we will try to have for you a draft from staff of what this report might look like. We will try to identify the areas where there is a clear consensus and other areas where decisions should be made, and we will try to put recommendations in front of



you that will allow you to make those choices. That will be our activity for next week. Amen.

The committee adjourned at 6:03 p.m.

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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY  
CONFLICT OF INTEREST

WEDNESDAY, NOVEMBER 19, 1986



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Dean, G. H. (Wentworth PC)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Warner, D. W. (Scarborough-Ellesmere NDP)

Substitutions:

Partington, P. (Brock PC) for Mr. Villeneuve

Sterling, N. W. (Carleton-Grenville PC) for Mr. Turner

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service



LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, November 19, 1986

The committee met at 3:22 p.m. in room 228.

CONFLICT OF INTEREST

Mr. Chairman: I see a quorum. We will proceed. We have had a couple of general sessions on the provisions of the report and what various people might like to proceed with. It might be useful now to have Mr. Eichmanis go through the draft.

Mr. Treleaven: Our caucus has reviewed the overall picture on the Aird report. I hope we have the mandate in front of us. As I recall, the first point in the mandate talks about the real reason the Aird report was commissioned: To see whether all the cabinet ministers had disclosed their assets as required. That is the bottom line; that is number one in the mandate. Perhaps the clerk can provide us with that.

A lot of details came out about the cabinet's dealing with that number one, bottom-line issue, and there were serious defaults in filing the information. Before we carry on any further with the Aird report, the drafts and so on, I think we had better go back to square one, to the bottom line of our mandate. Our mandate is to take a look at what the Legislature told this committee to do with regard to the Aird report. The question is why the cabinet ministers did not disclose their assets. Let us go back to the basic idea of what we are doing here.

Mr. Mancini: Why do we have to go through all this nonsense?

Mr. Treleaven: I have the floor, Mr. Mancini.

Mr. Mancini: I just asked a question.

Mr. Dean: Do you think it is nonsense that ministers were in conflict?

Mr. Chairman: May we have a little order?

Mr. Dean: Call him out of order.

Mr. Treleaven: Take a look at the mandate we were given, and you will find the third mandate is the one to which we are restricting our considerations, instead of the first two, i.e. the lack of completeness of the disclosures of the ministers.

Frankly, our caucus was quite upset that we are not dealing with the primary purpose of the Aird report, the reason the House asked Mr. Aird to deal with it. We hope either Mr. Aird or someone who worked with him on the committee will be able to come in front of our committee and clear up some of the questions. As I say, our caucus is quite concerned about this. We are not prepared to have this review completed at this point until we have some answers as to what caused the original problems.

Mr. Martel: Get off it.

Mr. Chairman: Could you help me a bit? We need you to make the pertinent point in your statement. I have not heard one yet. What is your statement about? For more than three weeks this committee has sat reviewing the Aird report.

Mr. Treleaven: Yes.

Mr. Chairman: Today, you have concerns about whether you should do that.

Mr. Treleaven: No. We want to do the Aird report, but we want to start at the bottom, not the top.

Mr. Martel: Tell us what you want to start with.

Mr. Treleaven: Number one, get the mandate and look at it. Start with number one, not number three.

Mr. Martel: What is the mandate? Give me the mandate. Tell me what you are looking for. We got a report from Aird. All of us went through the Fontaine thing. What is it you really want?

Mr. Treleaven: The table officers can read the mandate where we start. Give them time to read the mandate.

Mr. Warner: Fill him in, Mike.

Mr. Chairman: I am still waiting for you to make your point. I do not understand what you are talking about.

Mr. Warner: I am totally lost.

Mr. Treleaven: We are not prepared to carry on with a draft report at this point.

Mr. Warner: You are playing games.

Mr. Martel: A draft report of what?

Mr. Treleaven: The chairman said we have the third draft or second draft or whatever in front of us and we want to start on that. I am saying the Conservative caucus has dealt with this. Have you not discussed it in your caucus? We certainly have.

Mr. Martel: Tell us what you want to do.

Mr. Warner: What do you want?

Mr. Treleaven: Do you want me to do it again?

Mr. Martel: Yes. I want you to tell us.

Mr. Warner: In plain English.

Mr. Treleaven: In plain English. Remember, the number one purpose of this whole exercise is to find out what went wrong at the beginning and why so many ministers did not disclose their interests. We want to examine that.

Mr. Martel: On a point of order, Mr. Chairman: I want to know precisely what he is driving at. The mandate was to look at the Fontaine thing. That was a different item from this. We are now looking at the Aird report and conflict-of-interest legislation. We are not back-peddalling to find out what René Fontaine did--

Mr. Treleaven: That is number three.

Mr. Martel: --or what Flinor Caplan did.

Mr. Chairman: I am at a loss to figure out what is going on here. The committee has been sitting working on this draft for three weeks.

Mr. Mancini: And you participated.

Mr. Chairman: I would have had an easier time with it if someone had told me three weeks ago that you were not prepared to deal with it or if, by your presence, you had indicated there was a problem. I am at a loss to explain why three weeks into it, when we are looking at the first draft of what we might report to the House on the matter, you come and tell me you are confused and lost in the woods and you are not going to do anything. Your concern is a little late in coming. Help me out. If you have a problem, tell me what it is.

Mr. Martel: Let the lawyer do it for us.

Mr. Treleaven: If the teachers cannot understand this, Norm, have another try.

Mr. Martel: Run it by us again.

Mr. Sterling: When they considered the Aird report and the number of questions that were placed before it, the members of our caucus had a lot of questions that could not be answered about why Aird came to certain conclusions. What our caucus would like us to do is have whoever did the work for Aird come here so we can ask him questions: "Why did you come to this conclusion about this? Why did you go here?"

Mr. Warner: Can you give me one example of what you are talking about? Which one of these items?

Mr. Sterling: With regard to the whole idea of a blind trust, why did he come to these conclusions on the blind trust? Where did he draw his information from? Would it work in a situation for public companies and not only private companies? These guys have spent some time preparing their report. I do not see any great problem with calling the fellow who wrote the report here to ask him what he meant.

Mr. Mancini: The bottom line is that you do not want legislation.

15:30

Mr. Chairman: I have no problem with members of the committee asking to call witnesses on the matter; that is not my difficulty. It is a little late in the day and, I grant you, it is going to pose a bit of a problem.

The committee has been asked, by motion of the Legislature, to review the Aird report. This is our mandate; a review and a response by motion of the



House to do that. The recommendations contained in the Aird report are rather straightforward, I would think. Since the committee has dealt with it for three weeks, I assumed most members of the committee were not badly confused by it either. The recommendations are there.

If you want, I think it would be appropriate to call witnesses. I do not see anything wrong with that. However, there did not appear to be a great deal of confusion in the committee about the recommendations, so we were proceeding to go to the next logical stage, which was to draft our recommendations. If you have a list of people you would like to call as witnesses, motions to call witnesses are always in order. I do not think there is any problem. For your interest, I will read you the motion:

"Ordered that the Aird report on ministerial compliance with conflict-of-interest guidelines and recommendations with respect to those guidelines be referred to the standing committee on the Legislative Assembly for review and report."

There cannot be much confusion. We are to review the Aird report and make our own recommendations on it. There is even a draft bill attached to the report. It seems fairly clear to me that our terms of reference are relatively straightforward. If there are witnesses whom you want called, simply put forward a motion.

Mr. Treleaven: We would like someone who dealt with the Aird report.

Mr. Chairman: Could you put a motion to that effect? Never mind your complaint; put a motion.

Mr. Treleaven: Do you have a name?

Mr. Chairman: That would be helpful.

Mr. Martel: Any motion would be helpful.

Mr. Chairman: Do you have a motion to put forward?

Mr. Sterling: May I speak before we put a motion? It is all well and dandy for this committee to say it has dealt with it and has talked about the Aird report, etc. This legislation is going to affect every member of this Legislature.

Mr. Martel: Good.

Mr. Chairman: Yes.

Mr. Sterling: The committee went into some preliminary consideration of the Aird report. We went back to our caucus and the caucus had some legitimate questions. We represent our caucus here. They are telling us to get some clarification as to why we are going this way or that way.

I do not know who the individual is I would like call. I move that we call Mr. Aird or whoever was his principal adviser in writing this report and the researcher. I would like to have them all at once. I do not want to make it a lengthy process. I am interested in talking to them about how they came to their conclusions. That is how we see it.

Mr. Chairman: Take a moment to write out your motion. I think we

would be agreeable to the idea that if the motion is to call Mr. Aird as a witness, we will certainly make it clear to him that it extends to any staff people he would care to bring to provide clarification to the committee. I do not think that would be a problem. Traditionally, when we have called witnesses, if they made a request to have staff with them, we have acceded to that request. It is our purpose to try to get the best answers we can, so if they have wanted to bring people, they have always been made welcome.

Show us the motion, and we will be happy to put it to the committee.

May I ask one question, Mr. Sterling? How could you answer questions to your caucus? You have not been in attendance at any of the meetings when we have considered this.

Mr. Sterling: I did not try to answer the questions.

Mr. Chairman: How did you answer the questions, Mr. Treleaven? You have been here at portions of the meetings.

Mr. Treleaven: That is correct.

Mr. Chairman: As a matter of fact, the only member of your caucus who has been here through the bulk of them is Mr. Dean.

Mr. Treleaven: Mr. Dean prepared a summary, perhaps four pages, on which we met. Then we cut it down to about two pages. I have been on a lot of this conflict of interest for the past several years, and I carried it at caucus. The caucus had a lot of questions.

Mr. Chairman: You must have had a difficult time reporting the proceedings of this committee when you were not here.

Mr. Treleaven: On a point of order, Mr. Chairman: I do not think it is within the purview of the chairman to question that. Our chairman has no such jurisdiction to question the attendance or nonattendance of any member of this committee.

Mr. Chairman: I think I just did.

Mr. Treleaven: You are out of order, Mr. Chairman.

Mr. Chairman: I do not think I am.

Mr. Treleaven: I will not answer that question, because you have no jurisdiction to ask it.

Mr. Chairman: I think I just did, and I do not need jurisdiction.

Is there a motion before the committee?

Mr. Sterling: Could the clerk help me to draft one?

Mr. Martel: You need some help. Two lawyers could not draft the motion.

Mr. Chairman: We generally make it a practice, Mr. Treleaven, to caucus on matters before they are raised. We find it helps a lot. Do you have a motion, Mr. Sterling?

Mr. Sterling moves that Mr. Aird and any of his staff he feels would assist this committee be called as witnesses before us at the earliest date convenient to Mr. Aird.

Is there any discussion on the motion?

Mr. Warner: Having been around here for a little while, I realize that every once in a while committees are subjected to a frenzy of intellectual activity by the Conservatives. This seems to be one such occasion. These outbursts are neither frequent nor regular, but after three weeks of deliberating on the matter, suddenly a light changes and someone wants to have the author of the report come before us.

I do not object to that, but it should be made very clear that this is in no way--I hope it is in no way--a ploy by the Conservatives to stall the issue. The issue is important and it should be dealt with expeditiously. I understand that there is soon to be legislation introduced on conflict of interest. Obviously, the report is related to it.

I had hoped the sequence of events would be that our report would have a speedy passage back to the House, so that the government would have an idea of what the committee felt about the Aird report before proceeding to introduce legislation. That seemed to me to be a very logical way to proceed.

While I am supporting the motion, I suggest we make an effort to contact Mr. Aird. No doubt he is a very busy person, and if it is going to be a considerable length of time before he can come before us, we should get on with the work. Perhaps Mr. Aird can be invited when we deal with the legislation. His report will be pertinent to the legislation.

In other words, if he cannot come before us in a week or so, we should consider drafting a report back to the House, even if it is called an interim report. Mr. Aird will then be available to us when we look at the actual legislation when it comes forward. I underline that I do not want us to delay a matter that is important to all members of the assembly; not just cabinet members, but everyone.

Mr. Chairman: Before we continue with this debate, I will remind you, at its first meeting, the committee decided it would attempt to make a quick response because it was aware that legislation was anticipated and it wanted to spend more time on detail work, probably more fruitfully on specific legislation, rather than on the generalities of a report.

I do not view the motion today to be in conflict with that. It is quite in order to ask Mr. Aird to assist us with this. I do not read the motion to be one that says it precludes any other activity on the part of the committee, that is, continuing to draft the report, until he is present. If that is reasonable clarification, we can proceed.

15:40

Mr. Mancini: In the past three weeks, this committee has built up some momentum in order to address the issue of conflict-of-interest legislation. As has been stated by other members of the committee, we have been working at this for the past three weeks. As a matter of fact, we have gone into some detail about specific sections of the Aird draft legislation. We have exchanged views on whether the specific sections are applicable, whether they are reasonable and whether they could be put in place. We have



alked about a number of different, specific items as to how we could prepare conflict-of-interest legislation that would be applicable to all members.

What I see happening here today is a deliberate attempt by the progressive Conservative members, with instructions from their caucus, to delay the work of this committee. This is exactly the way I see it. It seems to me almost unbelievable that all summer long they took it upon themselves to extend inquiries on two former ministers of the government and on what happened in certain situations that might have put those members into conflict. Now that we have got down to the business of actually drafting legislation or actually making some comments, preparing a report on draft legislation, it seems this work should be delayed.

To me, it is fine if we have to call Mr. Aird to obtain information. However, if they think we are going to rehash two inquiries, they are wrong. There is a commitment by the majority of the members of this committee to prepare legislation. There is a commitment by a majority of the members of this committee to have some impact on how that legislation will affect all the members of the House. Weeks are ticking away. It is now November 19. Time is of the essence. We know that if we want to get something as important as the conflict-of-interest legislation done, we are going to have to keep moving and not, three weeks into the process, have someone try to stall the process or manoeuvre it into a different direction.

This is what I want to tell Mr. Warner and Mr. Martel. We are in the course of preparing or making comments about some draft legislation. If you are truly interested in this, let us continue with our work. If there are some people here who do not want to have conflict-of-interest legislation for all members of the House, stand up and say so. We will respect you for your views--

Mr. Sterling: Mr. Mancini, our caucus believes in democracy. We believe in consultation. We believe in finding out what we are doing.

Mr. Mancini: You are delaying; that is what you are doing. You are deliberately delaying conflict-of-interest legislation.

Mr. Chairman: I have a list and I would like to keep to the list.  
Mr. Dean.

Mr. Dean: I would like to clarify again what the other members of our caucus have said. We are not trying to delay something--

Mr. Mancini: It is unconscionable.

Mr. Dean: --in spite of what the member, who goes muttering towards the coffee pot, is saying. We have discovered our caucus is not in favour of the information we were able to pass on to them at this time. We believe--

Mr. Mancini: What would you like? Tell us.

Mr. Dean: Mr. Chairman, really.

Mr. Chairman: Yes, just let him give his whistle.

Mr. Dean: The dogs can bark, but could they do it outside?

Mr. Chairman: Just go ahead.

Mr. Martel: You are nasty.

Mr. Dean: Has nobody the right to be nasty except you?

Mr. Martel: That is right.

Mr. Dean: Son of a gun.

Mr. Chairman: Now you are asking for it. Say what you want to say.

Mr. Dean: We think there is a need to see exactly how Mr. Aird or his advisers, but preferably Mr. Aird, reached the conclusions they did and came up with the recommendations they did. That is why we are asking for these people to be here. It is not to be difficult or to unduly delay something.

Mr. Chairman: Are there any further comments?

Mr. Martel: I have listened to some snide remarks. We came here today and the first guy who led off took us through a jungle. By the time he got finished, he had to get help from a colleague because he was not here, to support a report you prepared.

I have listened carefully to you in the past couple of minutes tell me that your caucus wants input. That is why you have four members on this committee, to have you input, to move your amendments, to put forward your suggestions. That is what we are here for and what this committee is all about. Nobody is trying to block anything and there is nothing here that is undemocratic. What the hell do you think you are here for, if not to make the suggestions that come from your caucus and put them here to see if they fly as part of the report?

Mr. Dean: Exactly.

Mr. Martel: What kind of crap are you handing us then today with all the nonsense and the name calling and the junk that has gone on for the past hour?

Mr. Dean: You are a fine one to talk about name calling.

Mr. Martel: I did not call anybody any names. You go and find where I did.

Mr. Dean: That is exactly--

Mr. Martel: I am sick and tired of the snide remarks and the suggestion that you are not going to have an input. This committee is sitting for that specific reason. If you have something you want to say, you move it as we go through it section by section: any amendment you want, present the damn thing.

Mr. Dean: I am glad to see we have the support of the member from Sudbury East for the motion that is before us, because that is exactly what it is.

Mr. Warner: Let us get on with our job.

Mr. Chairman: Is there any further comment on the report?

Mr. Martel: Aird is not going to help us write the report. This committee is going to write the report. If we disagree with Aird, so be it.

Mr. Dean: I would like to call for time to gather the members who have not come yet.

Mr. Chairman: I have a point of order. Just wait a minute.

Mr. Bossy: On the basis of order, when there are six members present within this committee, the committee can proceed with the orders we have in front of us and proceed with the agenda that is before us regardless of the objections. If there is an objection, if it is moved that we adjourn, then let us vote on whether we can proceed. However, unless there is a motion that we cannot proceed, I strongly recommend that we have the mandate to proceed.

Mr. Chairman: We have a quorum. That is clear. The rule is clear that a simple majority provides a quorum to committee. It makes no reference to whether somebody wants to walk out. We do have a quorum present and we have a motion before us.

If there is any further debate on the motion, I will hear that now and then we can proceed to put the question. I have had a request for a recorded vote with a division and we can, of course, do that.

Any further debate on the motion? All those in favour, please indicate. Those opposed?

Motion negatived.

Mr. Chairman: I had a request for a division so we can do that. The time is now, by my watch, 3:48 p.m. You have 20 minutes to call your members. We will stand adjourned for 20 minutes.

The committee recessed at 3:48 p.m.

16:07

Mr. Chairman: We will resume.

The committee divided on Mr. Sterling's motion, which was negatived on the following vote:

Ayes

Dean, Partington, Sterling, Treleaven.

Nays

Bossy, Mancini, Martel, Morin, Newman, Warner.

Ayes 4; nays 6.

Mr. Chairman: Any other motions? Can we proceed? John, would you like to go through this?

Mr. Eichmanis: I hope the committee has remembered to take along to the committee meeting the draft conflict of interest act that was appended to the Aird report. Unfortunately, because of time, I was not able to put it alongside the proposed changes, so you will have to bear with me here.



The first one that Merike and I dealt with was clause 1(c). Here we mention that the definition of conflict of interest would have to include, if the members wanted, all members, that is, ordinary members as well as senior civil servants. That would have to be changed to include those entities within the definition of conflict of interest. As well, the word "interfere" in the third line of 1(c) is somewhat vague and it may be useful to consider replacing that one word "interfere" with "influence," so that it would read something like "reasonably perceived to influence the minister's decision-making process" rather than interfere. That sounds a little better than interfere, because that is too vague.

Mr. Martel: Let me ask a question first before we proceed. Are we going to comment exclusively on the proposed piece of legislation and add our own ideas to it, or are we going to right what we think is wrong with the proposed legislation and add ideas from all parties as to how it should change? I am not quite sure of where we are going, quite frankly.

Mr. Chairman: Let me try to help you. At the last meeting, we decided that the first draft would simply be staff going through the proposed legislation in the report and noting from our previous discussions where we would likely want those changes.

It would be logical that we would also provide the opportunity for members to make general comments--we have some of that in previous submissions to the committee by staff--so we would wind up with a generalized response, which we already have in our hands, a draft legislation and probably a third section which lays out principles we think should be adhered to. At this point, it is not our job to deal solely with the legislation. Last week the committee felt it was necessary to respond to it.

Mr. Eichmanis: If the committee is to proceed along the lines suggested, that could be written in the positive sense and made as a recommendation.

Clause 1(e): The notation here is that as currently worded "crown agency" includes only those agencies with all their members appointed by the government. The question is whether the committee would want to extend that to agencies where only some of the members are appointed by the government.

Mr. Martel: We would have to look at the people appointed by the government. I am not sure we have the right, although we could make the point that at least--

Mr. Dean: What is the significance of how many we talk about?

Mr. Eichmanis: It is a question here, where the crown agency later in the draft bill would be part of our recommendation by Mr. Aird, that a member could not have a contract and be employed and so on with a crown agency. It is a definition of crown agency. If you have a definition that says a crown agency is only an agency with all its members appointed by the government, you would exclude a lot of crown agencies in which only some of the members are appointed by the government. It is a problem of defining what sort of agencies would come within the jurisdiction of the act.

Mr. Dean: Just off the bat, we could not exclude an agency where the government appointed all but one of the members, for example. That would be silly. However, where do you draw the line?

Mr. Chairman: My initial instinct would be that it should be as broad as possible to include them all. If the government chooses to redefine that and make a shorter list, it would do that when it proposes legislation. We establish the general principle.

Mr. Martel: We might, if we think we are fishing too widely, say any agency where the people are appointed by government. The other ones, if it is the municipality which makes the appointment or the federal government, such as a housing equality--

Mr. Mancini: But are we not concerned that we have agencies where the majority of people are appointed by the government? Is that not really where our concern is?

Mr. Chairman: Most members would agree with that. The caution is that, at least initially in our response to this report, we are not looking for ways to provide technical excuses for not being covered by conflict of interest. We would want to establish that as many people as is reasonable should be. If someone wants to make the argument that this is not a major agency, they would have the normal exclusions and they would be taken out of the process.

Again, it goes back to our earlier discussions about whether it is conflict-of-interest legislation where some are covered and some are not. We said at that time it is not, that it is not the general thrust of what we are trying to do here. We could argue this more later on.

Mr. Eichmanis: This is a question of the definition of a crown agency. Clause 1(f) deals with "dependent child." If you look at the Aird report's definition, it means "a child, natural or adopted, of a minister or the minister's spouse." The committee's suggestion is extending this to members and civil servants, whether you should then extend dependent child of an ordinary member and senior civil servant in that case. Because you are starting off with the proposition that this legislation would apply not just to cabinet ministers but also to ordinary members and senior civil servants, it then seems logical to include dependent children.

Mr. Sterling: I have some serious problems with putting ministers and members in the same kettle of fish in terms of definitions. I have two different definitions in terms of who is dependent, who is not dependent and whom it extends to.

Mr. Chairman: Could I suggest a way to proceed? I know there will be a division of thought on the matter. In general terms, this seems to be what the majority of the committee wants. At some point--next week would be an appropriate time--we will have to go through these, and there may be occasions when you may want to split it. You may want to make a proposal that distinctions ought to be made between members of the cabinet and all other members.

In general, we thought conflict of interest should cover everybody but in different ways perhaps, if for no other reason than that members of the cabinet may have more occasions where the conflict could occur and that cabinet meets privately; so an awareness of the conflict covering a cabinet member in his activities in the Legislature would not cover what happens in meetings of cabinet. We have no knowledge of that and no way of getting knowledge. You may want to have a beefed-up version for members of the cabinet and a different process for members of the assembly.

Mr. Dean: I share my colleague's concern with one blanket rule to apply to everybody. After thinking the matter over again--I know we did not get into it deeply before--we should, as you suggest Mr. Chairman, at least flag some of these things, and there should be a thorough discussion of whether it is desirable to have the same rule apply to everybody.

Mr. Chairman: Just to interject for a moment, to say to an ordinary member that there would ever be circumstances where he would have to divest himself totally of interest in a corporation would seem unduly harsh. I can conceive of circumstances where it might seem reasonable to do that to a member of the cabinet, but I cannot conceive of an occasion where you would say that to an ordinary member. I cannot think of the circumstances where an ordinary member would be in that much conflict. For example, an ordinary member does not sign mining certificate grants, make approvals under zoning bylaws or things of that nature. A cabinet minister does. In the end, we might be saying that a simple declaration on the part of a member and not voting is a reasonable way to proceed. That may not be good enough when one deals with cabinet. You may want to make some of those distinctions.

Mr. Eichmanis: The next one is clause 1(h).

Mr. Sterling: When we are talking about conflict of interest, we are getting into family, children and all the rest of it, going backwards and forwards. Whose suggestion was 1(c)? Was that Aird's suggestion?

Mr. Eichmanis: What you have before you here on the side of the page are the staff's questions as they were brought out during the discussions. What you have with the other is the Aird draft bill that is attached to the Aird report.

Mr. Sterling: This is Mr. Aird's suggestion?

Mr. Warner: Yes.

Mr. Dean: That is what the research review was doing at the time.

Mr. Sterling: The conflict of interest, the net for a minister, does not include majority children?

Mr. Eichmanis: No.

Mr. Sterling: Was that a decision in here or was that a decision of Aird?

Mr. Eichmanis: No. That is the limitation that Aird has put on, the age 18 and under. There has been no discussion in the committee on whether we want to raise that, lower it or what have you.

Mr. Chairman: It is a matter that would have to be part of our final considerations.

Mr. Eichmanis: On the definition of 1(h), Aird had--

16:20

Mr. Sterling: I have a problem with "family." I have a different definition, my own, for the family of an MPP than that of a minister.



Mr. Chairman: That may be the way we make the distinctions as we go through.

Mr. Eichmanis: Once you get to the actual provisions of the draft bill as Aird has set out, "family" occurs only once, and that is in relation to "residential property should not be included in the public statement." You do not have the names and addresses of all the members of the extended family that the minister may have. It occurs only once and is in relation to that specific subject, not as a general proposition.

The present definition of clause 1(h) deals with "former minister." As you may recall, the draft bill later refers to what former ministers can do in terms of jobs after they leave government and cease to be ministers.

The question is whether the committee would want to include ordinary members and civil servants. The whole question would be, after they cease to be ordinary members or civil servants and go into the private sector, would they be restricted in terms of influencing the government? That is something the committee will have to decide.

Mr. Chairman: Do you have something on that, David?

Mr. Warner: Pack a couple of points.

Mr. Chairman: I would like John to get through this, and then I will let you raise the questions you see in his report. All right?

Mr. Warner: All right.

Mr. Eichmanis: Currently, clause 1(i) includes only the definition of "minister." The question is, if the legislation is to apply to everybody, should there be a definition of "member" and "senior civil servant." In the case of "member," it would be easy, but the question of what is a senior civil servant may be difficult. Do you stop at the deputy minister level, the assistant deputy minister level or the director level?

Mr. Chairman: Obviously, you pick a level.

Mr. Eichmanis: You have to pick a level somewhere if it is to apply to senior civil servants.

Clause 1(n) is the actual definition of "spouse" under the Family Law Act. Mr. Aird does not provide that; he just refers to it. We thought it may be appropriate for the committee to see the definition of "spouse" in the Family Law Act.

Mr. Morin: I believe we are going to have problems.

Mr. Eichmanis: That is included, as recommended by Mr. Aird.

Mr. Sterling: Is spouse single or plural?

Mr. Dean: I guess that is "spouse."

Mr. Sterling: Is that what you meant?

Mr. Morin: This will have to be extremely well defined.

Mr. Martel: If you are a Mormon, there will be more than one spouse.

Mr. Sterling: If one is a common law spouse, you could presumably have two.

Mr. Eichmanis: Under this section, Mr. Warner previously asked whether "spouse" should go beyond what is in the Family Law Act and include family members beyond the spouse.

With regard to "subsidiary," Mr. Aird simply indicates that the definition he would like to see is from the Business Corporations Act. The actual definition from the Business Corporations Act is provided here, so members can see what he intended.

Mr. Sterling: What does that mean?

Mr. Fichmanis: You are a lawyer; you read it and tell me.

Mr. Chairman: I think that what John is responding to is that in its previous discussions the committee said these definitions should be a little clearer. The suggestion was that we would move to other acts currently in existence and accept their definitions for our purposes. We have accepted the definition of "spouse" from the Family Law Act and the definition of "subsidiary" from the Business Corporations Act.

Mr. Sterling: I am sorry. I respectfully disagree with your former decision. One of the problems we may have run into with Mr. Fontaine and any other member of this committee was the fact that we did not understand what the present Legislative Assembly Act meant to us. There was a fair problem in terms of members understanding what the responsibilities were or were not. Once you put in a section like this, no member will ever hook up with subsection 1(2) of the Business Corporations Act.

Mr. Chairman: Basically, I think John just put this in here to try it on for size. You may be right; you may want to use some definitions that are written in layman's terms.

Mr. Sterling: What does that mean? Does that mean a majority interest in a corporation?

Mr. Eichmanis: The word that they use is "controlled". The Business Corporations Act uses "controlled". I think you have to go back to the definition section of the Business Corporations Act to find out what controlled means.

Mr. Sterling: That is a problem; we could go of for ever and ever.

Mr. Bossy: Do we find any other acts where spouse is defined or subsidiary is defined except in those two acts that we just mentioned? Otherwise, if we try to define spouse differently from what is currently in other acts, then which one is right? We find ourselves in a dilemma here.

Mr. Chairman: You will simply have a choice to make whether you want to accept the suggestion that was made previously of adopting definitions under existing statutes or to try to redefine it on your own and put it in simpler terms. When you come to making the decision, that is the choice you will make.

Mr. Bossy: If we put in a different definition, which one would have to be challenged as being right? We already have law or whatever that defines it--

Mr. Eichmanis: You could have this law superseding any other legislation, so the definition in this act, however it was passed, would supersede any other.

Mr. Sterling: You can define family 100 different ways in 100 different acts if you want. That is up to you. What the definition section says, Maurice, is subsidiary means whatever, in this particular act.

Mr. Eichmanis: The next one is section 2. Section 2 now says, "No minister shall knowingly place or himself or herself in a conflict of interest." Obviously, if it is going to be extended to senior civil servants and ordinary members, there should be an inclusion of all members and senior civil servants in that phrase.

Also, it should be pointed out to the committee that the word "knowingly" does provide something of a defence to either a cabinet minister or senior civil servant or ordinary member to indicate that he abided by the conflict-of-interest legislation as best he could and he did not know that he got himself into this particular predicament, because he did not have all the facts and so on. It provides a defence in certain circumstances to a cabinet minister, ordinary member or senior civil servant to say, "To the best of my ability, I tried to comply but I just did not quite make it."

Mr. Chairman: That will be the argument in any event.

Mr. Eichmanis: Yes, but that does provide a statutory out, if you like.

Mr. Dean: Does that cover the case where the minister forgot?

Mr. Eichmanis: It could. Either you leave that in or you take it out--whatever the committee wants to do. In section 3, it now just deals with ministers; so the wording would have to be changed to include ordinary members and senior civil servants. I do indicate that clause 3(a) may not be applicable to ordinary members since, by and large, unless they get things in brown paper envelopes, they really do not come into confidential information. So clause 3(a) may not be applicable to ordinary members. It is something to think about there. For the rest, there would be no difficulty in including ordinary members and civil servants within those particular provisions or clauses.

Mr. Bossy: The use of the word "are" is wrong there, is it not? After 3(a), after you go down in section 3--

Mr. Eichmanis: Yes, that is true.

Mr. Bossy: An ordinary--

Mr. Eichmanis: An ordinary, yes, thank you.

16:30

Section 4 is clearly directed at members of cabinet and obviously ordinary members could not be covered under this section nor even senior civil



servants. It may be best if you just leave it as is and have two separate clauses included in section 4: one dealing with ordinary members and one dealing with civil servants. The one dealing with ordinary members would stipulate that "ordinary members could not vote for any bill or any other measure that could reasonably be seen to place the member in a conflict of interest. Ordinary members would be permitted to vote for any legislation that confers general benefits to all or a large segment of the Ontario public, irrespective of their personal interests in the legislation."

This is, as you may recall from the guidelines, the so-called Ontario health insurance plan clause, that is, where there is some piece of legislation before the House that not only affects the member but also affects 95 per cent of the population. Then it does not make much sense that members should not have the ability to vote. But if it is something much narrower, which only deals with Oshawa or whatever, then that would be a different situation.

Mr. Dean: That basically parallels the municipal conflict, does it not? If it is something that does not benefit me any more than the general public, then I am not responsible.

Mr. Chairman: Yes, I think that is not a bad kind of standard to apply, that if the individual member does not benefit any more than anyone else, it is permissible, but if he does, then it is not. The municipal conflict guidelines do that.

Mr. Martel: It could be ourselves all the time for some votes. I imagine that a piece of legislation regarding farmers or teachers or--

Mr. Eichmanis: Then let us just indicate that under section 4 clauses (a) to (c). The problem with senior civil servants is a little more complicated because they do not have under the Manual of Administration a process where they deal with conflicts of interest. It is basically that they have to go to their higher-ups to get an okay or to resolve their problems.

The committee could recommend that this existing procedure simply be incorporated into the act or some reference made. I am not sure how that would be dealt with. I think there is no problem, honestly, with the director or assistant deputy minister, but when you get to deputy minister status, who does he go to? Obviously, he goes to the minister. That is what is envisioned in the Manual of Administration. There may have to be something of that included in the legislation. How do senior civil servants deal with their particular problems?

If the senior civil servants are to come under the act, as are cabinet ministers and ordinary members, then they would have the right to go the compliance commissioner and seek advice. The problem there is that they have a hierarchy, a Public Service Act and so on to comply with, and there may be some conflict there between trying to abide by the provisions of the Manual of Administration and the Public Service Act, on the one hand, and going to the compliance commissioner and getting advice from him, on the other. There are some tensions there as to where the senior civil servant goes to ensure compliance with the legislation.

Section 5: I indicate here that this probably could not apply to ordinary members. It refers to the performance of any statutory or regulatory power or duty and so on. This could not apply to ordinary members; so it does

not make much sense there. The only exception might be if an ordinary member were appointed to a government agency. The government has not done that for a number of years, although from my reading of the Legislative Assembly Act, there is nothing to preclude that in about 99.9 per cent of the cases. There are a number of agencies to which, under the Legislative Assembly Act, the government cannot appoint ordinary members, but as a practice, it has not done that for a number of years.

Various statutes envisage that senior civil servants are delegated certain statutory authority and so on. This is under a given statute, so there is the problem of whether senior civil servants could comply with this section, given that there is other legislation in the world--whatever act it may be--that imposes certain obligations on them. There would be a potential conflict with this provision and other legislation, if it were to apply to senior civil servants.

There is the requirement under various pieces of legislation for ministers to make final decisions. Section 5 requests that this be delegated to somebody else. The trouble is that certain statutes say, "The minister shall make the final decision." Either you would have to change all those acts or you would have to have this act override all those other acts.

Mr. Chairman: This act would override the other acts.

Mr. Eichmanis: All right. There would have to be some resolution of that problem if it were to apply.

Section 6 was a little complicated when I went through it. Merike, can you tell them what I thought it should be? She understood it after I explained it, but I do not think I can explain it any more.

Mr. Chairman: Things are normal.

Mr. Warner: You would make a good elected member. We never remember anything either.

Mr. Eichmanis: Part of the problem is that if section 6 includes ordinary members and senior civil servants, then once either of them has left government and goes out and is employed by somebody to come back to lobby, who does he contact? It is a two-way situation where a former civil servant is talking to a present civil servant. This is what we are attempting to cover. This section would have to be changed to cover those two aspects--the former civil servant who has now gone out into the world but who is now coming back and making contact with existing civil servants.

Mr. Dean: Not to derail your train, Mr. Chairman, it is becoming increasingly apparent to me that if we are going to do anything except cover ministers, it would be much simpler to include the other people in a separate act, rather than to try to be all things to all people in this one.

Mr. Chairman: That may be. I would like this section to go as is, to point out where there are difficulties. This is basically a response to the proposed legislation contained in the Aird report. Today John is pointing out that sometimes this gets very complicated.

At the next stage, when we go to our recommendations on it, flowing from this exercise may be the recommendation that there be two phases to it. We would do the simple one now and the other, more complicated thing later.

Mr. Eichmanis: I also point out that my reading of section 7 does not include self-employed ministers, senior civil servants or ordinary members. It deals just with where they are employed by some corporation or company. It is up to the committee whether it wants to deal with that.

Section 7 and the referring of questionable situations for advice to the commissioner could apply to ordinary members. I read this wrong.

Mr. Martel: It is page 77.

Mr. Warner: Section 8 is on the bottom of page 75.

Mr. Chairman: That is in the next section. Strike that last sentence in section 7. It does not apply to that part. It is in the next one.

16:40

Mr. Eichmanis: In section 8, there is no problem including ordinary members and senior civil servants in the private disclosure matter. That is no big deal. There is the question of whether 30 days are too short. It is basically to comply with the disclosure matter.

Section 9 is the same. There is really no problem with the public disclosure part of it. You could include ordinary members and senior civil servants within that. Mr. Mancini raised a question with clause 9(b) as to whether things that are valued at less than \$500 should be disclosed. You can argue whether that is too low or too high.

In clause 9(d), there is the question of by what date the public disclosure statements should be filed with the Clerk of the House. You may recall from the guidelines that no exact date was given for when Blenus Wright was to hand over the information to the Clerk of the House. As I read this section, there is no date here either.

Section 10 deals with the trusts. It is discretionary; that is, it is up to the minister to decide whether he or she wants to put his or her assets in a trust. They do not have to. There is the question of whether the committee wants to leave that as a discretionary policy or if it wants to change it to a mandatory one or simply not to have trusts at all--just have public disclosure and leave it at that. Essentially, there are three options.

As well, it obviously does not make much sense for ordinary members to worry about trust arrangements. It makes sense for cabinet members, but for ordinary members public disclosure would be just as good. However, senior civil servants should be included within that.

There should be an addition that Mr. Aird makes in his report but does not include in the draft bill. Where the commissioner is the trustee and has the option of delegating the responsibility to a nominee of the trustee, that nominee should be licensed under the Loan and Trust Corporations Act of Ontario. Mr. Dean indicated he would be worried about just anybody being the nominee.

Mr. Dean: Unless you handpicked the commissioner to be someone who has had experience in trust and investment, I am not sure the commissioner would be the right one in any event.



Mr. Eichmanis: In the report but not in the draft bill, Mr. Aird indicates he would expect the nominee of the commissioner to be licensed under the Loan and Trust Corporations Act.

Sections 13 to 19 are administrative sections dealing with the office of the commissioner.

Section 20 deals with the commissioner meeting with the minister and the spouse to provide details of how the act works. There is no problem in including ordinary members and senior civil servants in that.

Mr. Chairman: Is there a general feeling on the committee that we should underline or point out in some way that the process of meeting and getting people to comply deserves a lot of attention? The current situation seems to indicate that is one weak point. Who is supposed to do what? Who is supposed to advise these guys? Perhaps you can remember that all summer long we kept going through, "I thought he did it; I thought this person advised me," but no one seemed to be in charge of making sure it happened. It was a continuing saga.

Mr. Treleaven: Are they not all big people, though, with a certain amount of responsibility to look after themselves?

Mr. Chairman: Yes. The difference is that now they are going to be breaking the law.

Mr. Eichmanis: I should point out as well that Mr. Aird has said "shall." He has made it mandatory. "The commissioner shall." He has given it a weaker word here, "when reasonably possible," but it is still a "shall."

Mr. Treleaven: The commissioner is supposed to chase all these new ministers.

Mr. Chairman: The way Aird did it was to say the commissioner is the person who is legally responsible for seeing that all this is done.

Mr. Treleaven: Where are his teeth? Are there teeth for the commissioner? If he is saddled with the responsibility of rounding up these people and getting their attention within a short period of time when they are brand-new ministers, where are his teeth to make sure they turn up and do not put him off?

Mr. Chairman: I think we are coming to the teeth part.

Mr. Warner: He can conduct an inquiry.

Mr. Eichmanis: Clause 20(e) deals with inquiries into allegations of violations of the act. The committee indicated interest in having the investigations done by someone other than the commissioner. It did not specify who this other person would be. Presumably, another officer of the Legislature would conduct these inquiries.

Mr. Treleaven: Excuse me. I would like to go back to what I said. This is after somebody has blown the whistle on somebody. Let us take the situation of a year and a half ago. There were all these new ministers who did not know where the washrooms were. Now some commissioner will be saddled with trying to get people from all over Ontario to sit down with him and talk. He

has to have some authority other than to say, "Please come and sit down with me."

Mr. Eichmanis: Yes, but is not the political process the discipline?

Mr. Warner: No.

Mr. Chairman: I am going to have some problems with this. Frankly, I do not have difficulty if it is the commissioner who hears the grievance, as long as it is not the same person who advises on one occasion and on another investigates allegations that his own advice was bum advice or that he did not do his job. Some distinction has to be drawn there. Somebody else can advise the members, the ministers and all that, and the commissioner can come in and conduct the inquiry. That is okay with me, but somehow we have to separate the two functions of advising and adjudicating.

Mr. Treleaven: And not have the one the employer of the other.

Mr. Chairman: Yes.

Mr. Treleaven: It is no good for the deputy commissioner to advise and then for the commissioner to sit at the board of appeal.

Mr. Eichmanis: What you are suggesting is a completely separate office.

Mr. Treleaven: Yes. They have to be.

Mr. Warner: That still does not answer Mr. Treleaven's question.

Mr. Chairman: Let him get through this. Then we can entertain some discussion on it.

Mr. Eichmanis: Section 21 is no problem. Section 22 is no problem. Section 23--

Mr. Chairman: Is a problem.

Mr. Eichmanis: --is a problem. It now reads, "If the Premier requests pursuant to subsection 20(e)(i) that an inquiry be carried out on a confidential basis, the commissioner shall provide, in confidence, his or her decision concerning the alleged violation to the Premier." That report goes only to the Premier. In other cases where the assembly requires an investigation, the report can be laid before the Legislature. Last time, the committee expressed the view that all allegations, irrespective of the point of inquiry, should be tabled in the House. That is the view of the committee as expressed in that section.

16:50

Mr. Dean: Does that mean everything will be public?

Mr. Eichmanis: Yes. There will be no confidential investigations of allegations of conflict. There will be only an investigation that, in the end, will produce a public report. That report will be tabled in the House irrespective of whether the Premier, a member or the assembly in total asked for an investigation to be made. Last time, the committee expressed the view that irrespective of how the investigation begins or who begins it, the report

that results from the investigation should be a public document tabled in the House.

Mr. Treleaven: Even if the allegations are found to be totally without foundation?

Mr. Warner: That will be in the report because you have a commissioner who is--

Mr. Bossy: I am very uncomfortable because allegations can be--

Mr. Chairman: If an allegation were made, surely you would want the report that clears the member to be a public report.

Mr. Bossy: That is clear, but I would say that before it is public, it should be sent to the commissioner.

Mr. Warner: It is the commissioner who does it.

Mr. Bossy: I realize that, but you have already made an allegation. You know the life we lead as members. We had better look at that.

Mr. Chairman: What John is talking about here when he talks about the time period is that we may have to get down to the nitty-gritty and adjust ourselves to that. To be fair, if the allegation is public, and it is, the report that investigates it cannot be secret. It, too, must be public.

To eliminate nuisance allegations or frivolous allegations, you may want to say that he might have to do an interim report that says, "I have viewed these allegations and I do not believe they are worth my time to investigate further." There is an initial clearing. Quebec uses a slightly different technique. When we get to the recommendations part, we have to address that. There cannot be public allegations and then secret investigations. That would be useless. That would be worse.

The worst thing in the world would be to set up a commissioner such as this where any member who stands up and makes an allegation can cause an investigation to take place. For the rest of your political career, you walk around with this sign painted on your back that says somebody once made an allegation and it was so bad that the commissioner had to investigate it. Nobody ever finds out what the investigation proved.

Mr. Treleaven: Need all allegations be made public?

Mr. Chairman: Previously, we asked that there be several avenues in causing the commissioner to make an investigation. It would not always be done in the format of, say, question period.

Mr. Treleaven: Can I go back to the old thing of lawyers? You say to your secretary, "Do not leave your file open." A client comes in and you open a file and you put a tab on it that says, "John Smith re: rate charge." That is all you put on the tab; it is a "re." You leave that on your desk and somebody sees that. You do not really have to know what is in the file; the story is on the top.

Mr. Chairman: The accusation is there.

Mr. Treleaven: That is right. It does not matter that there is



nothing to it. The "re" line does the damage. That is what I am concerned about; a frivolous, totally irresponsible allegation blackens a name.

Mr. Chairman: At next week's meeting, you may want to give some consideration to whether you want a separate part that deals with frivolous allegations and how you want to handle them. Different places have adopted different schemes. In Quebec, I am told they simply say, "I sought some advice on this," and everybody accepts that as being an end to the allegation. Perhaps we could institute something such as that.

Mr. Eichmanis: I was going to point out that there is another section to the Quebec statute that says where a frivolous allegation has been made--in other words, it does not pan out--the matter is then viewed as a breach of privilege of the House.

Mr. Chairman: Maybe you should go through section 24 where you have that and the next one.

Mr. Eichmanis: In section 24, there are several options the committee initially considered last time. One is something along the Quebec model. As we understand this model, it is that a member or a cabinet minister, or in our case a senior civil servant, could go to the commissioner for advice and whatever that advice was, once he sought that advice, he could not be viewed at any subsequent time as being in breach of it or in breach of the act. If he or she does not seek advice from the commissioner, then that member, cabinet minister or civil servant is at the mercy of the political process and the matter would then be referred to the Legislative Assembly, or the National Assembly committee in the Quebec legislature, which would deal with the matter.

You would have two systems in effect. When the member sought advice, he was okay no matter what happened subsequently. If he did not seek advice, he would be open to investigation by the assembly itself. The Quebec model provides for a number of sanctions, including disqualification from the seat, that would be available in those circumstances to the assembly to punish the member who did not seek advice from the commissioner. It goes from a fine to suspension for a period of time or total disqualification.

What Aird has is that the commissioner's decision would be final in all matters where advice was sought. Last time, the committee tried to deal with the question of whether that should be the case, whether in all circumstances the commissioner's decision should be final and no more could be made of it. I think it is the committee's view that this should not be the case, that it should not be 100 per cent final. There are two options: the outline in clause 24(a) which is the Quebec model, or clause 24(b) which is to have all these matters referred to the Legislative Assembly committee, irrespective of whether advice was sought from the commissioner or not.

Mr. Mancini: We are trying to get away from that. You open up a whole can of worms. We do not need that as legislation. We will just carry on as we did in the past.

Mr. Chairman: We have one more section.

Mr. Eichmanis: On section 25 under the Aird proposal, there was some discussion--I do not remember whether it was last week or the week before--that any regulations promulgated under the act should be reviewed by committee before they come into force. Since this is a matter that directly

affects the members and so on, it is something the members should have some input into before they come into force, which is a little different from other regulations.

Finally, we have noted that Mr. Aird--in the report part; not in the draft bill--suggested that the Provincial Auditor make a report each year to the Legislature detailing any contracts or business transactions between a government or its agencies and, in our case, a minister, senior civil servant or ordinary member. We added that because it is not in the bill itself. Since he mentioned it earlier in the report, we raise it here for the committee's consideration.

Mr. Chairman: Unfortunately, we had to go through this quickly. I suggest that it would be reasonable to include this, with a little cleaning up of the language here and there, and that the next thing we do should be to go through our specific recommendations. There are several ways to proceed from here. We can ask John Eichmanis and Merike Madisso to draft some recommendations and put them on the table so we have something specific to deal with. Is that the way you would like to proceed? Do you want to proceed by way of motions? How do you want to handle it?

Mr. Mancini: Mr. Chairman, I like your idea of having something prepared for us so we can examine it and have further discussion. On a lot of these things we probably will not need any motions. We may come to some kind of collective agreement. I like to have something in front of me so that I can read and reread it, if it is possible.

17:00

Mr. Chairman: All right.

Mr. Warner: If we are going to end up with government legislation, it seems to me that we really do not need to take the proposed act, that is legislation that Mr. Aird has provided, and go through and try to examine each word and each clause.

What would suit me is if we took his report, both the body of the report and the appended draft legislation, made some general recommendations related to that and then forwarded them as our report to the House. In other words, I think the committee is basically in agreement with the general tenor of Mr. Aird's report. There are certain specifics around which we have concerns, and we can list those and any recommendations we might have; that is, that we believe any legislation coming forward from the government should include such and such.

I will give you just one example. The draft legislation proposed by Mr. Aird is directed solely at ministers. I think the committee will want to say that the conflict-of-interest guidelines should apply to all members of the assembly.

Interjection.

Mr. Warner: Why not? Why would you not say that?

Mr. Chairman: Let us not argue the point now. We are talking process here.

Mr. Warner: Okay. If that is what we agree on, that is put in under recommendations, with whatever other specific points we have. We will recommend that the general thrust of the report be accepted and that these specific recommendations be considered in draft legislation brought forward by the government.

Mr. Chairman: Let me try this on for size to see whether this will work. It seems to me that we have sufficient draft material here to do a reasonable preamble. We have seen that in previous reports. John has now gone through and responded to the legislative side of it with comments on what the options are and how you would expand or contract it. That should be our response to the draft legislation. The next is to establish the principles on which legislation would go from here, a set of 10 recommendations or something that the committee wants to do. We could do that next week.

We will have to decide the question of whether it is for the cabinet or whether it is for everybody. We have to address ourselves to that. We have to address ourselves to outside interests, full-time, part-time, whatever. We have to address ourselves to that question one way or the other. We seem to have some agreement on a couple of things, that is, that the legislation should come back to this committee for the fine print on definitions. We have taken a couple shots at "spouses" and "businesses" and things such as that, but there is a need to refine them.

We would like to see the legislative proposal before we spend a whole lot of time on that, but according to our earlier deliberations, that is probably the more sensible way to go. I think that running down those general principles would be next week's argument. We will debate the recommendations of the committee. We have the preamble stuff fairly well in hand, as well as the response to the legislative proposal that is in the report, and we now move to the general principles that we should recommend to the Legislature.

Mr. Warner: I agree with that. I want to be very candid about this whole thing. If we get down to the task at hand, I think that by the end of next week's meeting we can complete a report to go back to the House. There is no reason not to.

Mr. Chairman: That may be possible, yes.

Mr. Warner: If we just put our minds to it, we can do it. I agree with everything you said. What might be helpful at this point is for each of us to put forward items we believe should be discussed as recommendations. Then next week, having had a week to think about it, we can have them prepared on a list in front of us and we can go through them. I certainly have perhaps a half a dozen items, which I am not sure are covered adequately in here, which I would like to have discussed. Then at some point next week, we can take a vote on it to determine what goes into the report. Does that make sense?

Mr. Chairman: Yes, I think with one little proviso on it. If you have something that you want included in the report by way of a recommendation or a principle, or whatever you want to call it, and you want some help in drafting that, it would help to use John or Lynn or Merike to help you draft those things to put them as best we can in front of the committee for consideration. My concern is not whether you say yes or no to any idea, but only that the idea is in a reasonable format so that we can all sensibly say yes or no to it. There are three people here who can help you draft that stuff. If you have something you want, we can do that.



I do not want three versions of the final report to hit the table, but one draft set of recommendations where John is able to help you outline the three options that are reasonable to consider in this regard. We have a week to do that and it seems to me we can. Next week the committee's job is to say yes or no to those ideas.

Mr. Bossy: I am sure we recognize that we have not been asked really to draft legislation.

Mr. Chairman: No, we do not want to.

Mr. Bossy: We do not want to leave that impression either. We are looking at the proposed draft legislation, which really is a report from Mr. Aird. We have to draft a report based on a report. Some draft legislation has been proposed. With our input on it, and modifications or discussions that we have had concerning changes with it, it only becomes part of a report. I do not think we really want to come forward with such a detailed report that looks like a piece of legislation. We want to wait until the real McCoy comes forward from the government and--

Mr. Chairman: I would go a little further. I would suggest that in the final parts of our report it is important for us to state that all of this was done on the assumption that there would be legislation proposed. It would come back to this committee where the fine print would be drawn. We are operating on that basis. If that is an agreeable way to proceed, we can do that. You have three people who will help you put words together that we can get in front of the committee for next week.

Mr. Bossy: There is an element here of importance where we should pursue that as quickly as we can. We know the minister is in the process of drafting a piece of legislation and we do not want to come in with a report after the fact. We want to have our report in, based on what we have been handed to look at, and that is the Aird report. Then our suggestions could lead to a better piece of legislation.

Mr. Treleaven: Is the minister drafting an act at this point on conflict of interest?

Mr. Chairman: The best that I can report to you is that there have been several public statements that the government intends to proceed with legislation this fall. From that, I assume that somewhere in the government side there are people drafting all kinds of versions of what this might look like. Eventually, it will go through cabinet and legislation will be presented.

Mr. Mancini: They are anxious to see what kind of conclusions we have come to from the report that we received to look at.

Mr. Warner: May I suggest that for points of discussion for next week there a couple of things I would like to see the committee do, or do we have time now?

Mr. Martel: You made a suggestion that everybody come to John and Merike, who will then put ideas together which will be presented to us next week. So there is no sense starting to go through a discussion on items now. Until we see the whole package before us next week, it is just a waste of time.

Mr. Chairman: I frankly think it might be a little more fruitful if we allow ourselves the week's time to draft the wording we want. I really do not want us hung up on arguments over what the actual recommendation looks like. If we can get some consensus, I would prefer to move that way. I always have. If it is necessary to have divisions and votes on things, we will do that, but it has always been our first inclination to try to work out any agreements that we can and move by consensus when that is possible. I would like to continue in that vein.

I have a sense that a division lurks here or there which we cannot avoid, but that is our job and it does not mean the end of the world to divide on this. If we can put together a document all of which, or the bulk of which, is based on consensus, I prefer to try to do that. It is as simple as that.

Mr. Bossy: I tend to agree with you that based on everything that has been said from the first meeting to this one, which I was not able to attend, unfortunately, but I have a good grasp of what has been going on. Based on the draft legislation, the changes that John brought in for us to look at and the comments that have been made, I am sure John and the entire staff can now come up with a general consensus on what our report should be.

Mr. Dean: I would like to differ but not to be argumentative. We did not get an opportunity to discuss this today because the chairman said: "Do not do it. We will come back to it." We are not at a stage yet where John and Merike have much of an idea on what we might say about it.

Mr. Chairman: No. That is why I think it would be useful to take a week's interim and try to do that.

Mr. Dean: I heard a member saying he knows already; I do not think he does.

Mr. Chairman: No, but it is fair to say we have gone through four sessions now in six months, and they have some sense of where the committee's preferences lie. It is not their job to make the decisions on what to do. It is only their job to put things in front of you which allow you to make the choices. That much we can do. If we had a week to draft that, we could probably handle it.

Mr. Treleaven: I am a little concerned and a little discombobulated that I hear the government is already in the process of drawing draft conflict-of-interest acts. I am reminded of our recent two-year exercise over appointments in the public process when we were told to go to hell once the recommendations and report were filed. I am a little afraid that we are going to spend our time here and find that our report is redundant, the draft act already being in place.

Mr. Martel: Is it not nice being in oppositon?

Mr. Chairman: I appreciate your concerns.

Mr. Martel: I have been here for 18 years.

Mr. Chairman: Any other comments?

Mr. Treleaven: Do not wear a hair shirt now, Elie.

Mr. Mancini: I wonder whether it would be more reasonable to prepare a report that would make statements of principle in general terms instead of more precise terms.

Mr. Chairman: Yes. Let me clarify that. However many recommendations you want to make, next week there may be five recommendations from the committee that carry and go into the report or there may be 25. I do not know how many. It depends on how imaginative you are in the interim. We have seen the preamble and the response to the legislative draft, and now comes perhaps the most difficult but also the shortest part of it, that is, a list of recommendations or points of principle which now has to be drawn up. You will decide which you support and which you do not support. We will do that by consensus or by vote, either way. I think it is quite possible to do that.

Mr. Bossy: The actual legislation will be drafted from that. It will come before the House and it can be totally debated and argued about again and voted on.

Mr. Chairman: Yes. Any further discussion today?

We stand adjourned until next Wednesday afternoon after question period.

The committee adjourned at 5:14 p.m.



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Dean, G. H. (Wentworth PC)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Warner, D. W. (Scarborough-Ellesmere NDP)

Substitution:

Cooke, D. R. (Kitchener L) for Mr. Morin

Also taking part:

Pope, A. W. (Cochrane South PC)

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

## STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, November 26, 1986

The committee met at 3:38 p.m. in room 128.

CONFLICT OF INTEREST  
(continued)

Mr. Chairman: We are ready to proceed. We have the draft report in front of us today, and I would suggest to you that probably the easiest thing is to go through the recommendations one at a time.

Mr. Dean: I hear and read rumours about the imminence of the government introducing a bill on this. The latest rumour I heard around here said it would be tomorrow. If it is as imminent as that, or even next week, it seems to me we are beating our gums just for the sake of exercise. I wonder whether you, or especially the members of the Liberal caucus, have any information that is more reliable than the rumour mill on that.

Mr. Chairman: I have no information, other than statements by the Premier (Mr. Peterson), that they intend to introduce it this fall. That would be the second piece of legislation made public. The first, of course, is in the Aird report itself; a draft piece is included there. I have had a few discussions with people, and frankly, part of the reason we wanted to expedite this process, with a brief report this time, was that we wanted the committee to have concluded its report prior to the introduction of the legislation.

It would seem that this will coincide a little more closely than I had expected. I do not suppose it makes a great deal of difference whether the report is tabled first or whether the legislation is tabled first. It is my understanding that the legislation will be referred to this committee in any event.

Mr. Dean: I was going to suggest it probably would. Would we be saving ourselves a lot of time and effort in holding up further discussion along the lines we were planning until the other bill is referred to us?

Mr. Chairman: In earlier times when we discussed this, the committee decided we would go in this sequence: We would do a brief report initially, for our purposes as much as anything else. We would then deal with the legislation, and it might be that some of the vexing problems that are contained in this report and in any legislation we might see would be the subject of an ongoing study by the committee.

There are some definitions, for example, of the trust arrangements that might be acceptable. What do you mean by "spouses," "sanctions" and things such as that? It is fairly obvious to many of us that these are going to be a little more complicated than we would like. Therefore, we decided we would not do a lengthy study of it now, that the first study would be shorter rather than longer and we would do it in more detail when the legislation came.

That is the sequence of events, as I understand it. Does anybody else have anything to add?

be defined, or whether you want a range, or whether you think there is one ultimate sanction and the rest of it is a kind of political sanction. I would put to you that you cannot get away from the idea that if you set up a commissioner, people have to comply; and if they do not, then there has to be some penalty provision.

What I have trouble with, frankly, is whether we want something that says, "If you do not file a paper by a certain date, you get fined \$50." I am not sure I want that. Or do you want something that says, "If you do not file by that date, it is referred to a committee"? Or do you want the ultimate sanction to be, "If you do not comply in some total way, you lose your seat as a member"? We may have to do something a little more specific than what is drafted here, but we will leave that open to discussion.

The 11th one is a matter of others who might be defined under this. What Mr. Eichmanis has done probably reflects accurately where the committee is with it. There are a lot of questions about whether you can require people who would be identified as lobbyists to register themselves, to be identified and things of that nature, but it does not really come to a conclusion. You may want to leave it simply as a question and take that on at another time in more detail.

That is the draft of the report. Do you want to go through it one by one? Is that a simpler way to do it, almost like a clause-by-clause?

I take it there is no problem with the introduction, is there?

With the need for legislation? With the legislation to cover all members of the assembly?

15:50

Mr. Dean: Maybe we referred to this last week. It is the opinion of our caucus that the legislation should be confined to ministers and parliamentary assistants, on the grounds that they are the ones who are most likely to be in any position to influence or have a conflict.

Mr. Warner: Is it the position of your caucus that any member of your caucus who has a direct pecuniary interest relating to a matter before the assembly should be allowed to vote on that? By extension, that is the position of your caucus.

Mr. Dean: Not really.

Mr. Chairman: You do not have any problem, for example, with standing order 23 on that kind of provision. That is the one that points out that, "No member is entitled to vote upon any question in which he has a direct pecuniary interest, and the vote of any member who has such an interest shall be disallowed."

Mr. Dean: That is what we have now.

Mr. Chairman: The recommendation that causes the problem for your caucus is that ordinary members should not have to file some kind of disclosure. Is that right?

Mr. Dean: Yes.



Mr. Chairman: Okay, we will note that. The next one is civil servants. Is there any problem with that recommendation?

Mr. Mancini: How wide is this?

Mr. Chairman: The recommendation says there should be "an appropriately defined level of senior civil servants." It would leave to the legislation to draw the exact definition of that. The intent of the committee is that it is possible to do that in legislation. When you draw up a bill, you can define in the legislation itself exactly who is covered.

Mr. Mancini: Are you talking about deputies, assistant deputies, chairmen of crown corporations, presidents of crown corporations?

Mr. Chairman: Yes, that is pretty much the list, down to the director level, probably.

Mr. Mancini: All the way down to director.

Mr. Pope: May I ask why want to do it?

Mr. Eichmanis: Senior civil servants are the managerial ones.

Mr. Chairman: I do not think we want to draw the line exactly. The committee is saying that a clearly defined level can be drawn, and we are saying that we will wait until the legislation is proposed to examine what the appropriate line is. We are taking the broad-brush approach that you can do it and awaiting the legislation before we put the precise point on it.

Mr. Pope: Having had some lengthy discussions about this in another incarnation about three years ago, I do not know whether you can draw the line at the senior management level, first. I am not sure how you define that in such a complex ministry as the Ministry of Natural Resources, for instance, where you have two different structures, one a line command structure and the other a horizontal structure over programs, if you know what I mean. It is the relationship of the district manager versus the regional director, and then you have the executive co-ordinators through that level. They have different functions and reporting functions. That is a little complicated.

I am not sure how far you go in your crown agencies, and the type of crown agency presents a separate issue.

Mr. Chairman: Do you have any problem with the principle that, roughly speaking, senior civil servants come under this legislation?

Mr. Pope: No, I do not have any trouble with that. To make the report meaningful, you have to take a run at trying to draw some lines, even if it is a couple of alternatives. In fairness, you should try to do that.

Mr. Chairman: Okay. You might want to put some more words there that do attempt to define it.

Mr. Pope: Yes. The second part of that question concerns the kinds of interests involved, and the nature of dealing with those interests may vary according to the level of the bureaucracy.

I will give you a good example, because it happened. I do not think that, directly or indirectly, an employee of the Ministry of Natural Resources should bid on a cottage lot.

Mr. Warner: That is why we have a commissioner.

Interjection.

Mr. Warner: Yes, advice by the commissioner on what appears to be the most appropriate action to take; decision by the minister.

Mr. Chairman: What if the minister decides not to take the advice?

Mr. Warner: Then you have another provision in here--

Mr. Chairman: Then it would be reviewable by--

Mr. Warner: --for it to be reviewed by the committee.

Mr. Bossy: There still would be disclosure.

Mr. Chairman: Yes, there would be disclosure in any event.

Mr. Dean: We are talking about beyond disclosure and it would be my position that ministers, and I am not referring to ordinary members at this moment--

Mr. Chairman: This section deals only with ministers.

Mr. Dean: --should have to put their publicly traded company stock or whatever it is, anything that can be bought and sold on the ordinary market, in the blind trust.

Mr. Chairman: I think a reflection of the committee's deliberations previously would say something such as that. There are some occasions when the use of trusts is perfectly acceptable and is the most expeditious way to do it. We are stumbling with the problem of someone who owns the only store in a small town. We are not making the argument the person should completely sell the store or should in all cases be required to put it into a blind trust.

Mr. Dean: Disclosure should be sufficient for that.

Mr. Chairman: We can change the wording. Mr. Eichmanis, can you take a run at redrafting that section? You do not have to do it right now.

Mr. Dean: Obviously, the store is not going to do business with the government while he is minister.

Mr. Chairman: My problem is that I want to accommodate something we all would see as being reasonable.

Mr. Dean: Is it not in here somewhere that a minister has to disclose his interest, not only totally but if a matter comes up--

Mr. Chairman: Yes.

Mr. Warner: That is where I see it as a package. The person has disclosed the holdings. There is a commissioner with whom he has filed all the material and all the documents, a commissioner he seeks out for advice. Each situation will be different. The person then has a number of options available that depend on the situation. He gets advice from the commissioner. If, for some reason, the person ignores the advice or does not follow it in some

proper way, there is a stage at which the matter can be reviewed by a committee of the legislature. It is a package.

Mr. Chairman: We will get back to that and see whether we can draw up some words for that.

Mr. Dean: Partly in terms of our own caucus review, it should be just ministers and parliamentary assistants, but I suggest that for the ministers the Premier ought to be in there somewhere as the person who has to take some responsibility for people keeping clean, whether he is the one who really reviews the alleged conflict--

Mr. Chairman: Mr. Dean, the distinction the committee would make is that the Premier is always responsible for what the cabinet or the government does. This would put in place legislation that would have a designated person, the commissioner, who in law accepts some responsibility for this as well. The law would say that it is the commissioner who says you have to file by this date, who has to advise the members and has to supervise and monitor the use of trust funds and things such as that. In addition to the Premier's responsibility for it, this law will deal with what the commissioner is expected to do.

Mr. D. R. Cooke: I wonder whether it would be appropriate, when dealing with what should or should not go into a trust, to let the commissioner decide what is appropriate in a particular situation?

Mr. Warner: That is what I am suggesting.

Mr. D. S. Cooke: I am sorry. I thought that was what you said.

Mr. Chairman: Mr. Eichmanis is going to have to do a little drafting to reflect that.

Mr. Bossy: Following up on the appropriateness of what the commissioner decides, because a minister when taking on a certain ministry and having a certain business might be in conflict, he might, at the advice of the commissioner, dispose of it rather than put it in trust. If that minister does not take that decision, then it would be recorded that he had been told to dispose of it.

Mr. Warner: That is the idea.

Mr. Bossy: The commissioner must know everything. Anything that has not been disclosed becomes the responsibility of the person who did not disclose it. You can say the Premier is to blame or whatever, but there is a set of rules for everyone. We are all of age and we understand that all our holdings, whether they are minor or major, should be totally disclosed to the commissioner. He can at that time suggest putting them in trust or whatever.

Mr. D. R. Cooke: I can give a very graphic example of this. At the time of my election, I had received an offer from a major developer who was trying to buy up our whole block including my law office and home. It was a fairly controversial matter in our area. Some people advised me to put my home into a blind trust. Then you start to think, how can you ever have your own matrimonial home dealt with by a blind trust without your knowing whether it is being sold? The concept seemed impossible and yet I would have appreciated if a commissioner could have given me a ruling.



Mr. Dean: In this section 5 we are talking about, where it applies only to ministers, we should make it also apply to parliamentary assistants. They are not strictly in the policy-making area, but they have access to--

Mr. Chairman: You are suggesting that parliamentary assistants should be able to use a blind trust as well.

Mr. Pope: Are they still on the regulations committee?

Mr. Chairman: I do not think they are.

Mr. Dean: Are parliamentary assistants still on the regulations committee?

Mr. Chairman: Mr. Cooke, are you making the argument that all members should be able to use the trust provisions?

Mr. D. R. Cooke: Yes.

Mr. Chairman: Can you explain that a bit? In our previous discussions, we did not think there would be an occasion when a member would be in a position where he or she should use a blind trust. In other words, we did not think the conflicts would be that clear. It was part of our discussion that there ought to be more rules and provisions for members of the cabinet than for ordinary members, that for ordinary members, simple straightforward disclosure was required. Do you want to make an argument?

Mr. D. R. Cooke: Your argument is based on the fact that ordinary members supposedly never become aware of classified information.

Mr. Chairman: No, the argument is based more on the pragmatic idea that on a day-to-day basis, members of the cabinet are exposed to conflicts much more than are ordinary members. It is the minister of the crown who finally signs the cheque or who signs approval for something; ordinary members do not.

Mr. Bossy: So do parliamentary assistants.

Mr. D. R. Cooke: May I suggest that there are bound to be occasions when ordinary members will have to make a decision and vote, either in committee or in the legislature.

Mr. Chairman: The other way to cut this would be to say that all these techniques are available to all members. It may turn out that ordinary members never or rarely get into these conflict situations. Maybe there would be no harm in rewording this so that these provisions are available to all members.

Mr. D. R. Cooke: An ordinary member could go to the commissioner and inquire whether the commissioner thought it was appropriate.

Mr. Chairman: I can think of one or two occasions when an ordinary member might--

Mr. Bossy: More than one.

Mr. Chairman: For example, property transactions: If you owned a farm in rural Ontario and the Ontario government was building a road through

there or Ontario Hydro was doing a right of way or something such as that, in that situation an ordinary member might want to put the family farm in a trust so that the conflict part of it is taken away and the government proceeds with its business.

16:10

Ms. Mellor points out to me that under the Municipal Act, one of the things they are having a problem with is members of municipal councils who look for a conflict so they do not have to vote. This is becoming a common practice. They are declaring conflicts. We know of instances where members have bought one share in a corporation to avoid being caught in the middle of a controversy. The one share allows them to declare a conflict; therefore, they are out of hot water. I do not have any strong feeling on this either way. Should we go on the premise that everybody is an honourable member and nobody would do such a dastardly deed here?

Mr. D. R. Cooke: Not necessarily.

Mr. Bossy: I have a question. If a member or a parliamentary assistant is asked to head a task force or a committee to study a problem and come back with a recommendation to the minister--he might be looking at the lakeshore; let us use that as an example--the committee would have quite an influence on the minister in suggesting a resolution to the problem, whether it is spending so much money or whatever, but the member might have a cottage there or whatever it may be. I am wondering about when one is serving the minister.

Mr. Chairman: Is there consensus that we should make the trust provisions available to all members? All right. Let us do it that way.

Mr. D. R. Cooke: The important thing is the advice of the commissioner.

Mr. Pope: Did anyone have a chance to review Mary Ebert's discussion about trusts and Caplan?

Mr. Chairman: That one will get reworded so that it includes ordinary members.

Mr. Dean: It includes them as having it available. There is no requirement.

Mr. Chairman: That is right.

Mr. Pope: I may disagree with my colleague here, but I am not sure that there should not be a requirement to sell public shares as opposed to putting them in a blind trust.

Mr. Chairman: We have said that is one of the options. The commissioner may recommend that the member or minister sell his shares in something. That would be an option at the commissioner's disposal. He could say to me, "This conflict is so great that you have to divest or sell your shares in this corporation." I would have to accept his advice.

Mr. Turner: It would be mandatory?

Mr. Chairman: That is one of the options the commissioner would

have. He might find circumstances where he would say, "There is a clear conflict that you cannot get out of any other way other than to divest your assets." That is conceivable.

Mr. Mancini: The person is disclosing the assets and everybody knows the person's assets. Whether it is in a trust is not the important thing. The important thing is that the commissioner knows, we know and a number of other people know.

Mr. Turner: The important thing is that the public knows.

Mr. Mancini: It does not take a genius to figure out that these are the assets that were disclosed and these are the assets that have been taken. These things just do not add up. I am not sure we should say to the person, "You have to sell or you must be running back and forth to the commissioner." It will be up to the individual to decide what the situation will look like when it is concluded. If it is going to look awful--

Mr. Warner: That is why you have a commissioner. The commissioner will provide that advice.

Mr. Chairman: Perhaps when Mr. Eichmanis redrafts that section, we will take a run at it.

Mr. Pope: May I leave him with one last point? I think the commissioner should have clearer indications from the committee as to what it expects. I do not think a blind trust works in a closely held family corporation or a family business. There is no way you can get an independent blind trustee without completely mucking up the family business. On the other hand, putting the interests into the hands of a relative will not satisfy any public perception test you may want to build in. Even if you have put your shares of a publicly traded company into a trust, I do not think that affects the potential conflict of interest one way or another. I am not sure you do not have to address your minds to the nature of the assets you are dealing with. You fall back, as Mr. Mancini said, on disclosure.

Mr. Mancini: Disclosure; that is what is key.

Mr. Turner: That is also the best safeguard you have. The public is informed and knows what the assets and properties may be.

Mr. Pope: For instance, because we thought it was a very artificial situation, we never even put it in the report that Elinor Caplan had a share in Damaza Consultants, which was Wilf Caplan's consulting company. She had a share and her husband had a share. There were two shares outstanding and each had one. The fact is he ran the business; she did not. She did not transfer the share until two and one half months after they entered into the contract with Wyda. We did not think it was important enough to go crazy about. When you looked at the nature of the business and the fact that he was running it, it did not matter to us that she had one share, technically a half-interest, in the company. That is why I am saying in a family--

Mr. Chairman: Perhaps in the next recommendation there will be something that ties that in.

Mr. Dean: Before we leave disclosure or trusts, I want to be sure we recognize what I think we all agreed on, that there is a distinction between a publicly traded corporation such as Bell Canada Enterprises and Dean's Pure



Carpet Cleaning Company, if there were such a company, that my brother and I run. I do not think one should be required to do the same thing with those two different types of things. I can see a blind trust or perhaps actual divestment of the Bell Canada shares if you are going to be in some sensitive regulatory ministry. If you are just part-owner of a carpet cleaning company, I can see disclosure as sufficient.

Mr. Chairman: The next one is the definition of spouses. In the recommendation as drafted by John, "Spouses and minor children of a cabinet minister be included in the conflict of interest legislation, and that consideration be given to including close family relatives, requiring them to make a public disclosure statement when the minister has common business interests with that relative." In other words, the commissioner could say, "This person may not normally come under our definition of a spouse or minor child, but he is your brother-in-law and there should be a requirement that he disclose."

Mr. Mancini: I am not big on that.

Mr. Chairman: To try to pin it down a little more, this would be at the discretion of the commissioner. He might decide that there is something that is somewhat unusual and that there is a requirement for disclosure. John drafted it so that not everyone is dragged in. It would not apply in every circumstance.

Mr. Pope: May I suggest an alternative? I may disagree with myself in a few minutes. You might consider the alternative of a minister having to disclose the interests of other relatives in common businesses or properties.

Mr. Chairman: I see what you mean.

Mr. Pope: He would have to disclose not only for himself but also for any relatives, so the relatives are not dragged in to make public disclosures.

Mr. Turner: That would only pertain to businesses the minister has an involvement with.

Mr. Bossy: There is a possibility where the minister and someone in the immediate family might have an interest, but then we are going beyond the spouse and the minor children; there could be a brother who might have invested and never told his brother that he had invested in the same interests.

16:20

Mr. Chairman: With this kind of recommendation, what we are talking about is that the commissioner monitoring the use of trusts will pick that up because he monitors who is running the trust fund now. Under that kind of monitoring situation, he would be able to identify whom else in the family unit ought to disclose.

Mr. Mancini: You are assuming that we have already agreed the trust fund is the only way to go.

Mr. Chairman: No.

Mr. Dean: As well as.

Mr. Mancini: I think the spouse and the children are fine; that is the family unit. However, to start to drag everybody else into this is just--the first thing you know you will be talking--

Mr. Chairman: We are not dragging everybody else in.

Mr. Warner: Did you read the last line?

Mr. Chairman: There has to be a reason for the person to be drawn into it.

Mr. Warner: It reads, "when the minister has common business interests with that relative."

Mr. Turner: He is going to have disclose it anyway.

Mr. Mancini: What about the minister's best friend or an acquaintance or all that other stuff?

Mr. Turner: If the minister is involved, he is going to have to disclose the interest, is he not?

Mr. Pope: Let us take an example. René Fontaine's sister has a controlling interest in United Sawmill. The only way I would say René Fontaine's sister should have to make a public filing would be if she became his trustee for his interests.

Mr. Chairman: I think it is undeniable that, during the course of the summer, this was a sticking point. Close relatives and close friends were involved in the conflict allegations and it was difficult to draw out information on them. I think we were all uncomfortable. For example, I think it would have been untenable if we had decided in Fontaine's case to drag all his relatives in here, although they were one of the few groups in northern Ontario who did not appear before us.

I think you have to do something such as this: It is the option of the commissioner to identify that there is a business interest, which is the reason this other person, who normally would not have to disclose, now has to do it.

Mr. D. R. Cooke: What about a situation where the relative refuses to co-operate? Suppose a child of a cabinet minister says, "My father never asked me whether he should go into politics and it is really"--

Mr. Chairman: My concern is, how practical is the role of the commissioner going to be? I accept the notion that the commissioner will be advising people on how to handle this situation. He must have some options at his discretion and people must have some sanctions to compel them to conform. Otherwise, it gets very untenable in a hurry.

Mr. Dean: We have Mr. Pope's suggestion, which I have not disagreed with yet, where I think I heard him say that perhaps the minister should disclose that there are other people along with him, his brother-in-law, his friend down the street and so on.

Mr. Chairman: If he has common business interests with that relative.

Mr. Dean: No. They are saying that those people have to make disclosure. That is what this says.

Mr. Turner: The minister could do it.

Mr. Dean: That is what Mr. Pope is saying. The minister should make--

Mr. Chairman: Okay. We can do a little wording on that.

Mr. Turner: Once you reach out into the private sector, where people are not under the influence of this place, you are going to run into some opposition.

Mr. Chairman: We will go back to that. Are there any problems with recommendation 7, "Outside Business Activity"? The problem area is about halfway down the page. We could say that the members cannot engage in any outside business activity or that restrictions should be placed on that, such as that the business activity could take place between sessions or for certain hours a month.

I think the problem is that if you say the obligation is on the committee to put some definition on it, I do not quite know how we are going to do this, but we have to turn our minds to our preference on that. If you are precluding outside activities for any member, a cabinet member or whomever, you have to recognize that some people will get--in my thinking, anyway, I have no interest in saying that a member of cabinet or any member should be denied the honorarium for giving a speech to the University of Toronto convocation or as visiting lecturer or something such as that. I do not have any problem with a member of the assembly getting paid to write a book or to do a television program or something such as that.

I start to get concerned when a member makes being a member of the assembly secondary to other business interests. In other words, I think it would be wrong for me now to go back to teaching five days a week and to come in when it is convenient.

Mr. Turner: Surely that is a decision each individual member has to make and he would do so at the peril of his constituency, would he not?

Interjection: Not entirely.

Mr. Chairman: They made that mistake once; they might make it again.

Mr. Bossy: We could do it considerably more if for each member there is more staff allowed because of the funds that are made available and every member could staff his office with staff to run the constituency.

Mr. Chairman: Yes.

Mr. Bossy: At noon during lunch break you call your office up and ask: "Is there anything important? All right, give him directions."

Mr. Turner: Yes, but if your constituency office is anything like mine, people want to speak to me; they do not want to speak to the staff. That is a peculiar situation. It does not matter how well informed the staff members are.

Mr. Chairman: For example, we are unlike the British Parliament,



where it is common practice that because nobody wants to pay members of the British Parliament anything worth talking about, most of the 635 members work somewhere else. They rarely attend the assembly; they occasionally come for votes. The bulk of the work of the British Parliament is carried on by a core of about 50 to 100 people who show up every day and who have enough money, are retired or something like that. They carry it.

In our previous deliberations, we rejected that concept and said we would try to do some definition of it. We obviously do not have that done. If you want, we can simply make a blanket recommendation that says we do not think members should have a full-time outside job. It could be as vague as that.

Mr. Turner: Why do you not restrict it to ministers and parliamentary assistants?

Mr. Mancini: Why are you always after the parliamentary assistants?

Mr. Turner: I am not after anybody; please understand that. I think the position of parliamentary assistant is important enough to say that the person has to be here pretty well on a full-time basis.

Mr. Pope: I am going to disagree with you.

Mr. Turner: All right.

Mr. Pope: Having been all three, I think it should be restricted to ministers. The best discipline of the system is the political process. I am not saying anything out of school. This summer a couple of attempts were made in my riding to depict me as a part-time member who was more interested in his legal career than in his obligations to his electors; that is fair ball. Some of the members in the Legislature indicate from time to time that I am a part-time member, and that is fair comment as well. The people of Cochrane South will decide whether it is important enough that I should be thrown out on my can.

Mr. Bossy: But there is the other group who do nothing else and make it a full-time career. You know the public's cynicism towards members, that we are all overpaid fat cats living on the government. The fact is, Mr. Pope, that if you can go out and earn extra money, there will never be a time that will be the right time to have, even though it has been that way, an increase in pay for the members because it is going to minimize--

Mr. Pope: I will make one prediction: You will not get an increase in pay linked to these recommendations.

Mr. Mancini: Never.

Mr. Pope: Never, so forget it. I have been through that with Bill Davis and a lot of members of this assembly have been involved in these discussions. I suspect the same tentative approach to it--

Mr. Bossy: They are going to say that if Mr. Pope can do his work in half the time, the rest of them should do it in half the time and they are overpaid.

16:30

Mr. Pope: It will not matter what happens. I guarantee that the politics are not worth a massive increase in the salaries the members were paid. I think political leadership as smart as ours saw the writing on the wall--

Interjection: As the Liberals do.

Interjections.

Mr. Pope: It does not draw, no matter what justification you make.

Mr. Warner: How soon they forget when they get to the other side of the floor. Some members, even a couple of them sitting here, used to mention the low pay of ordinary members, but now that they are on the government side and they all get extra beans in the grocery bag every month, it is suddenly--

Interjection.

Mr. Pope: How long does it take you to get to this point?

Mr. Warner: There are a couple of things here. First, I see part of this as an evolutionary process. If you go back, and not all that far, it was a part-time job. At one time the Legislature sat for a total of four or five weeks a year. Then, when some members were attracted to the House, they were told it would be a part-time job--am I right, Mr. Newman?

Mr. Newman: Yes.

Mr. Warner: It was. Then there was an additional sitting so there were two sittings a year for a total of maybe ten weeks. We have reached the stage where not only does the House sit for a considerable length of time but also, when it is not sitting, there are many committees sitting.

The work in the constituency has increased. Some constituencies have increased in size as well. The problems and issues that come before us are more complicated, resulting in a lot more work and a greater pressure on research. If a member wishes to do his or her job properly, he has to make use of the library and research. The Legislature now recognizes we should have a research capacity, so members are entitled to hire researchers. That has taken place.

There has been a change. This is the appropriate time to recognize that change by saying people should have an expectation that the person they elect is a full-time representative at Queen's Park or in the riding. That is what they expect. In fact, a lot of members pride themselves on running a campaign that advertises this: "Elect me. I am a full-time member. I am going to give you full-time service." Then you do not see them for four years.

It is easy to argue that the system will take care of it. With respect, that argument is a bit of a dodge. Under normal circumstances, the system gets a chance to react in four years' time. In four years, the person who has been working only part-time might go to the people in the riding and ask them to re-elect him as a full-time member. The political system being what it is, knowing that the individual member is probably worth about five per cent of

the vote and that the party and the issues and the leadership, etc., are worth a heck of a lot more, he could get away with that scenario.

I think it is appropriate for members to say that the public expects and should receive a full-time member. In return, that member should be compensated appropriately to reflect the responsibility and the time spent. What bothers me considerably is that the last three reports by the commission that was set up to look at our salaries and make recommendations have been ignored. What is the point in having a commission recommend salaries to members if the advice is ignored?

Alan Pope might be right that we are not going to get it, but we are certainly not going to get a significant increase if we roll over and play dead. Neither is it fair to expect the government to accept the notion that only cabinet ministers will be covered by the idea that one works full time, but that the rest of us who do not want that restriction put on us should get a big increase. I do not think you can have your cake and eat it too.

If we want the provisions the commission has recommended--I think it indicated \$42,000 in the last one--salaries should be raised immediately to \$42,000. The government ignored it, as it ignored the previous recommendation. If we are going to get that kind of report, then we have to give something in return, and that is say that this is a full-time job. That does not preclude other members from having financial holdings. It does not mean members have to sell off their 80,000 shares in Cadillac Fairview or whatever they own.

Mr. Turner: I think I hear what you are saying and I do not disagree with it. However, speaking as a member, I think we cannot afford to throw out what few safeguards we have on the vague premise, not a promise, that things may change. I am cynical enough to think as Mr. Pope does. I do not see that change happening from past experience and in the light of remarks the present Treasurer (Mr. Nixon) has made. I am sure we have been through this discussion 101 times. I do not see any great revelation coming. If the government wants to do it the other way around, fine.

Mr. Chairman: I hear the committee saying that this section should end roughly after the words "the question remains whether the same rules should apply to ordinary members."

Mr. Warner: Why not tie the two together in terms of recommendation?

Interjection.

Mr. Warner: I understand that.

Mr. Chairman: I think the problem would be that if you were to go further than that, you would have to do something that would point out that it would indeed be unfair to extend this to ordinary members without that assurance.

Mr. Warner: That is what I am saying.

Mr. Turner: But let us have the assurance.

Mr. Pope: The Treasurer will be on the side of the gods on this one.

Mr. Chairman: He normally is.



Mr. Warner: That is why I am saying, why not tie the two together? If you lose one, you lose the other.

Mr. Pope: It looks to the public as if you are trying to use this to lever some money out of Bob Nixon. He will sit there and say, "You guys are trying to"--

Mr. Warner: No. We are trying to get the government to acknowledge the very commission that was set up to advise.

Mr. Bossy: There has never been a better time. The discussion that is taking place here is valid. We are dealing with conflict of interest. If there ever was an area of conflict of interest, it is setting your own wages. We are looking at establishing a commission to deal by law with conflict of interest. This is the time, if ever there was a time, for a recommendation that the members will no longer vote on their salaries, that there will be an outside commissioner and that whatever the recommendations are, they will be binding. That is what we are trying to do: make everyone abide by a commissioner.

It is a dream world about when it comes to the cabinet, because it already has. This is our problem and it was their problem federally. I was involved in that, in trying as well as we could to get the salaries up. Ninety-nine per cent of the members in the entire House signed up, and then Mr. Trudeau said he would go along with it. We came close and we did get a little extra. The fact is, that should not have to be done by the members. It is a conflict of interest to vote on your own salary.

16:40

Mr. Chairman: What do we want to do with this? Do you want more words, fewer words or what?

Mr. Turner: Leave it where it is.

Mr. Chairman: We will cut it off at the end of the second paragraph.

Mr. Warner: We have not mentioned anything about the salaries.

Mr. Chairman: If you want to, now is the time to move your motions about what you want in and what you want out.

Mr. Bossy: I think that would be out of order because we are dealing with the Aird report, unfortunately, and this is what we--

Mr. Warner: What is wrong with recognizing, as Mr. Bossy says--not necessarily in the recommendations, but in the body of the report--that the members' setting of their own salaries is definitely a conflict of interest, and the committee notes that the outside commission has repeatedly suggested immediate increases, a suggestion that has been ignored.

Mr. D. R. Cooke: If the members ever attempt to change their salaries, the commissioner will declare that it is a conflict and we cannot vote on it.

Mr. Chairman: I do not sense a problem with the next one. Recommendation 8 reads: "The investigation of allegations of conflict of interest be performed by an official other than the one advising members." Is there any problem with that from any quarter?

Mr. Turner: No; I think it has to be.

Interjection.

Mr. Turner: Is there a problem? What is the problem?

Mr. Mancini: The word "official" is rather vague and can mean anything. I do not want Sinclair Stevens inquiries set up all over the place at the cost of several millions of dollars.

Mr. Turner: No, that is not the point.

Mr. Chairman: We are saying here that the commissioner who advised me on how to conform with this is not in a position to conduct an investigation into allegations of conflict. Somebody else has to do that, another member of the commission.

Mr. Mancini: Why is he not in a position? If he is the--

Mr. Chairman: If he said to me, "Mike, do this and this," and I do this and this, and somebody says, "But that is not proper," what is he going to say? "I gave Mike bum advice"?

Mr. Mancini: No. The commissioner is going to say: "I studied the matter before I gave the member the advice. I was of the opinion at the time that he was not in a conflict of interest and I am of the opinion now that he is not in conflict of interest. If you do not trust me as commissioner, why are you coming to me to seek advice? It is my job (1) to make sure everybody complies, (2) to monitor the situation and (3) to know what the hell I am doing."

Mr. Chairman: Frankly, I would not accept that.

Mr. Turner: Do you not see that as being a bit of a problem, though?

Mr. Mancini: We are asking the police to look after the police.

Mr. Chairman: Yes. For the same reason, I do not accept that either. There will be a problem here if the same person advises us one week and a month later conducts the investigation into the allegation that something is wrong. We are have to make that separation.

Mr. Mancini: Excuse me, but who is this official?

Mr. Turner: We are talking about the commissioner, are we not?

Mr. Chairman: It would be in the commissioner's office. It would be okay by me if someone on the commissioner's staff provided the advice and, subsequently, if an allegation were made that it had not been done properly, the commissioner himself or herself conducted the investigation. That is okay by me, but there has to be some separation of the two roles.

Mr. Mancini: That is a little different from what the--

Mr. Bossy: If the commissioner--

Mr. Mancini: Excuse me, Mr. Bossy, I am not finished.

Mr. Turner: You are saying that the same person cannot be judge and jury.

Mr. Chairman: Yes.

Mr. Mancini: Excuse me, I am not finished yet. That is a lot different from what item 8 actually says. Recommendation 8 says it is some official. We do not know from what department, whether he will be from the Attorney General's office--

Mr. Chairman: We mean from the compliance commission.

Mr. Mancini: You are telling us, then, that there is going to be--

Mr. Turner: If I may interject, I just had a thought. Would it not be that the person primarily responsible in a situation such as that would be the Premier?

Mr. Chairman: I suppose you could do it that way. As I read this, what I inferred from it is that a staff person would be assigned to advise the member.

Mr. Turner: But I think it is too important--

Mr. Chairman: You want to reword this in a different way.

Mr. Turner: We are starting to get into the politics of it.

Mr. Mancini: That is why we are going to legislation.

Mr. Chairman: I read it the other way around. I thought it would be a person on the commissioner's staff who would actually be advising the minister.

Mr. Turner: So you want to divorce it completely from the political process.

Mr. Chairman: Yes. It cannot be completely divorced from the political process; that is not going to happen, either. However, there would be a tremendous defence, for example, if somebody made an allegation against me, in being able to say: "I sought the best advice I could get from the commission. This guy told me to do this, and I did it. If you think it is wrong, you can complain to the commissioner and he will conduct an investigation into it."

Mr. Mancini: That is like getting an auditor to audit the Provincial Auditor.

Mr. Pope: I do not understand how you can say both recommendation 8 and recommendation 9.

Mr. Chairman: Maybe it would help if we were to go through recommendation 9.

Mr. Pope: It seems to me you are saying that if the guy follows the advice of this person, he still may be culpable in some way and subject to investigation; but if he ignores it, he is not subject to investigation; he goes to the legislative committee.



Mr. Chairman: We are trying to set all this aside so that the new commissioner will advise the members. As long as you follow that, you are going to be relatively sheltered in this. There could be an investigation by the commissioner, but it is really away from the Legislature itself. If the member chooses to ignore the advice of the commissioner, he does so at his peril because it would then come before a legislative committee. In other words, if the commissioner says, "I advise this member to do this," and he does not do it, one of the sanctions would be opening it up for the allegation to be referred to a legislative committee.

Mr. Pope: He could be investigated by someone in the conflicts branch--

Mr. Chairman: In the commissioner's office, right.

Mr. Pope: --for being in breach of conflict of interest, even though he complies with what he was told to do.

Mr. Mancini: That is not fair.

Mr. Chairman: The commissioner would take the complaint. I suppose the first report tabled would concern whether the member had or had not complied with the commissioner's request. If he had complied, that would be the end of the argument. If the commissioner found he had told a member to sell shares of a stock and that was in the report, then a legislative committee could pursue why the member had not done that.

Mr. Pope: Why would you even have a member subject to an investigation by another person in the conflicts bureaucracy if he had sought advice and followed it? What else can you ask someone to do?

Mr. Chairman: There will always be these complaints, and we must find a vehicle to deal with them.

Mr. Pope: The same guy who gave the advice should just say: "I hear your allegation. This is his disclosure. This is the advice I gave him, and he followed it."

Mr. Turner: And that is the end of it.

Mr. Bossy: Exactly. It stops that person from getting up in the Legislature and bringing in allegations without going to the commissioner. Anyone who has any intention of bringing in an allegation had better first check with the commissioner. That is that. That is the idea of this. Then send him to the Legislature.

The commissioner would become involved only on a breach of what he had recommended, or on some area that was not disclosed. That becomes part of the commissioner's job. In other words, the commissioner will then have the power to impose the fine he deems proper. He is the ultimate arbiter. That would have to be tabled in the Legislature. The formal vote on the commissioner's recommendation would be taken by the Legislature, either to approve his recommendation or to say no. This is the way it should go, and that is final.

Mr. Pope: I would like to get into the sanctions aspect in recommendation 8 and recommendation 9 because I think that is reverse confirmation.

Mr. Chairman: I am having a little problem discerning where you want to go with this. Some rewording could clarify the position I understood you to take previously. Some of you are taking different positions now.

16:50

Mr. Turner: If you are reaching a final decision in that first part, the compliance commissioner would have the power to make a final decision about whether a member had complied with the act or not--

Mr. Chairman: That is right.

Mr. Turner: --as well as to suggest any remedial action.

Mr. Chairman: Yes.

Mr. Turner: The last half bothers me because it seems that if we are going to have this person in place to provide--it is not to provide a service; it should be mandatory. It should be a must that a cabinet minister go before the commissioner to make a disclosure. If he chooses not to disclose, or if he chooses to mislead the commissioner--

Mr. Chairman: Yes. That is the provision we are having trouble with here.

Mr. Turner: It is.

Mr. Chairman: If we assume that everybody will always be able to conform--

Mr. Turner: But he or she must appear before the commissioner. I do not think there is any choice in that.

Mr. Chairman: Yes. I would be an advocate of the idea that as long as you conform to the rulings of the commissioner, you are reasonably well protected--

Mr. Turner: That is right.

Mr. Chairman: --but if you choose not to disclose, if you do not take his advice--

Mr. Turner: I do not think you should have that choice.

Mr. Chairman: I guess what will happen in the end is that, for the vast majority of cases where a conflict can be alleged, the big defence will be, "I conformed to the commissioner's rulings." You have a doublecheck here whereby the commissioner can say, "Yes, my staff gave him that advice, and yes, he did that," and that is the end of the debate. The only place left would be the fool who chose to ignore that advice, or not to disclose, or to lie. That person would be subjected to the parliamentary inquiry.

Mr. Turner: They are at their own peril, really.

Mr. Mancini: The commissioner would figure that out in five minutes. For example, say an allegation was made in the House about a particular member, and part of the allegation was that the member forgot to disclose certain properties. The staff who are following what is going on would alert

the commissioner. The commissioner would then look at his files and say, "Gee, that member in fact did disclose these lands," or "He did not." The commissioner would call the member and say, "Did you forget to tell me something?" The member would say yes or no and, depending on what the answer was, the case would proceed.

Mr. Chairman: How would the commissioner find that out?

Mr. Mancini: Somehow the member who was alleged to have done something would have to respond. Someone would have to get up and say, "The honourable member who seems to think that this property is in somebody's possession is wrong, because it is not"; or "He is right, and I forgot"; or "He is right, and for some reason--I do not know why--I did not do this." It would clear itself up in five minutes.

Mr. Chairman: I take it you want to do some rewording on this.

Mr. Pope: May I just say one thing? Then I will let the member from Sudbury East (Mr. Martel), whose 39th birthday it is today--

Mr. Turner: Is that right?

Mr. Martel: I am in a holding pattern.

Mr. Chairman: We have noticed.

Mr. Martel: Eat your heart out.

Mr. Pope: I wanted to get it on record somewhere.

I understand recommendation 9; I think recommendation 9 is right. But if you have recommendation 9, you cannot have recommendation 8; or I do not understand recommendation 8 if you have recommendation 9. Just leave it at that.

Mr. Martel: What worries me is that, when we looked at what happened this summer, the members got advice and it was put in writing. There appeared to be conflicts between some of the people who were giving advice and not making sure it was adhered to. What happens if you have a commissioner who does not give the appropriate advice and a minister gets into trouble? The guy starts to investigate himself why he did not force the member to comply, did not check it out? This is what worries me. It is like putting--

Mr. Pope: The offshoot of this is that there is some culpability on the part of the member, even though he had legitimately followed the advice given and had fully disclosed everything. I am not so sure you launch investigative proceedings. If he followed the advice given, what more can you ask from that poor person than to do that, if he has fully disclosed?

Mr. Martel: Okay; I understand that, Mr. Pope. It is not the member I am even worried about. Let us say he gets bad advice, and the guy who gives him the bad advice is the person responsible for conducting the investigation, if there is a conflict. This creates a serious problem. If the advice is not proper, you are asking the person who gave the advice to investigate.

Mr. Pope: What is the conclusion of the investigation?

Mr. Martel: I do not know.



Mr. Pope: Is it conflict of interest? The poor guy says:--

Mr. Martel: Let us say we accuse someone--

Mr. Pope: --"Damn it, I told you all about it and I did what you told me to do."

Mr. Martel: Let us say the guy, in good faith, followed everything he was told--

Mr. Mancini: No, it is all going to be in black and white. I am going to walk into your office as if you are the commissioner and I am going to say, "Elie, I think I have six pieces of property." You say, "Remo, thank you for telling me." I am going to have to fill out a form, in black and white. I am going to have to sign a form that says: "Commissioner Elie, I have told you everything I own, my spouse owns and my children own. Here are the documents. Here is the proof. This is it."

Then something happens, and you say, "Yes, you can do this or you cannot do that." You will make your decision based on the documents that I signed declaring that everything there was full and truthful. If that is the case, why do you want to drag me through something?

Mr. Martel: Let me ask--

Mr. Chairman: This is a problem I think you are going to have to deal with.

In our report we did not recommend an American-style investigation. You may recall at Congress, when people were up for appointment, they said: "I am up for an appointment. You can have access to my complete tax records. You can do field audits by the Internal Revenue Service and the Federal Bureau of Investigation." All the subsequent documents were available to the public at large. There were some restrictions on how accessible things were, but their conversations were that once you put it in writing, everybody can get it.

We are taking a different stance, where it will be the member who says, "This is what I own." There is no field check on it, no tax statement, no IRS investigation; there is nothing. That is the flaw, perhaps, in what we are proposing here.

Mr. Mancini: That is where number 9 takes over.

Mr. Chairman: I agree that recommendation 9 is important because somehow you have to recognize--for example, this summer everybody was supposed to have filed all these documents. Everybody was supposed to have made all these declarations. I think the truth is they tried. However, it did not happen. Recommendation 9 deals with what you do when what is supposed to happen does not occur.

Mr. Martel: There is one other thing that worries me that you are ignoring. If you will recall, I really wanted to kick the Ministry of Natural resources in the head--

Mr. Pope: Again?

Mr. Martel: They are the ones who called for the meeting with Mr. Fontaine, the beggars. I will never forgive MNR. When they left the meeting

with Fontaine, they immediately went to report to the deputy about the meeting. The deputy knew they were talking to a minister about things they should not have been talking to him about.

In a way, it can go well beyond the member's capacity. When he is busy hustling around and doing all his things, somebody can take him down the garden path. I am not saying it will be the commissioner but I am saying it could be.

Who investigates it then, Remo? That is what is worrying me.

Mr. Mancini: Who investigates the Provincial Auditor? This committee will do that the same way we did it this summer, if it gets like that.

Mr. Martel: I hope we never have to go through another one of those.

Mr. Mancini: That is why we are doing it this way. The commissioner is going to read the legislation and he is going to know that if something like this erupts, it is eventually going to come here. I doubt if it ever will because I think it is going to be much simpler--I really believe it is going to be much simpler--than some of the things we have seen over this past year.

We are going to have a piece of legislation which is going to be put in front of all the members when they are elected. The commissioner is going to call these members and say: "Did you read the legislation? When can I have an appointment with you and your spouse? Can we make it next week? Please ensure you read the legislation."

When he gets to the commissioner's office, these forms are going to be ready and the blanks are going to be filled in. The commissioner is going to say: "Take this home with you. I am going to call you back in two weeks to make sure you have not forgotten to tell me anything. Then we are going to have another meeting. Please come back and see me." They are going to go through the process again and then they are going to sign their names to it. It is not going to be as sloppy as it was.

17:00

Mr. Bossy: Just to follow on that, and a little in response to Elie, the fact here is that now we are talking about what will be the law, compared to a hotchpotch of trying to interpret a guideline.

Mr. Mancini: Somebody's guideline.

Mr. Bossy: Somebody's guideline, whether it is the Premier's guideline or a lawyer's guideline or an interpretation. There is the law, and everybody will be faced with the law as a member and must abide by the law. That is where there is an awful difference from trying to interpret a guideline, which is everybody's version of a guideline.

Mr. Pope: I understand the two concepts. For instance, the Ontario Human Rights Commission has an investigative branch and it has an adjudication branch. The people that do the investigation are not the people who hear the matter when it comes before them. They hire commission counsel. In my day it was John Sopinka, and I used to help him prepare the cases.

Here we are talking about what could be an investigation of our member's conduct when he has followed the advice. It is almost as if the human rights

adjudication branch investigates a complaint when a member of the public actually complied with the recommendations of the investigator. Do you see what I mean? We are not looking at something where someone did not give information or did not follow the advice or somehow was in breach of the Human Rights Code and then was investigated and prosecuted. You are talking about someone who has gone to the compliance commissioner, got his advice, followed that advice and then there is a complaint.

Mr. Warner: What is wrong with that?

Mr. Pope: How can you have an investigation by the compliance commissioner, or anyone in his office, with respect to a member who followed the advice?

Mr. Warner: That is the tricky part.

Mr. Pope: That is why you have number 9.

Mr. Warner: Right. Just to follow your example through, that is the only one that really presents a problem. It is fairly simple if a minister chooses not to follow advice; that is an easy one. It is fairly simple if the minister chooses not to go and seek advice. What is tricky is if the minister seeks advice and follows it, but some member of the Legislature believes there is a conflict of interest and the member then raises it with the compliance commissioner who investigates.

Mr. Mancini: Who then tells the member he is wrong.

Mr. Warner: Just a minute. He goes to the commissioner from whom the minister had sought advice, received it and followed it through, to try to determine whether that advice was sound advice. Then the compliance commissioner, I presume, presents a report that says, "I am satisfied that the advice sought and given was appropriate." End of case; finished.

The only logical follow-up to that, if I am the member who raised it in the first place and I am still not satisfied, the only other avenue available to me is to take it to the court on my own. Other than that, the matter is finished. On the other hand, if the compliance commissioner comes back and says, "I have investigated and I believe that poor advice was offered and there is indeed a conflict," the matter is referred to the Legislative Assembly committee.

Mr. Mancini: Are you going to put the minister through the committee for following the advice of the commissioner?

Mr. Warner: For following bad advice, yes.

Mr. Chairman: I am getting the gist of what is being said by both sides now. There may be a small solution in here. I think we are in agreement that, as a general rule, the members will be pretty much forced to follow the advice of the compliance commissioner, but we are left with occasions when the system does not work. How do we handle those?

It seems to me that you have to address yourselves to the fact that this will all be done by human beings and will be subject to some error. It may be deliberate, it may be happenstance or it may be that somebody who should have done a job did not do it, so you have to have some provision in there. We are taking a second swipe at it and saying the office of the commissioner will have a second level of investigation and adjudication.



The commissioner may say there was no bad intention on anyone's part and therefore that person is to be left alone. He may find that someone did not disclose or someone did not do the job. In that instance, that is what you could pick up and put in front of the standing committee on the Legislative Assembly. However, the norm would be that the commissioner would report on the circumstances and that would be the end of the matter.

Mr. Mancini: The second part of that is, as we all know, if you have not told the truth, if you have not disclosed, it will take five minutes to work that out. The point I want to ensure for the members, so that the member is not punished, is that when the member has followed all instructions--I am sure this will be done by letters; it will not be done over the phone. Members have an idea now of what is going on. I am not following any commissioner's advice on conflict of interest until I have a letter signed by him in front of me one way or another. That will be an important point. When the member follows the advice of the commissioner, the member is exonerated, as long as the member disclosed.

Mr. Chairman: I think we are in agreement. We are saying the only occasion when a legislative committee will get at this stuff now is when a member clearly refused to disclose and did not give accurate information. Those would be the grounds.

Mr. Mancini: We do not need recommendation 8, but we need recommendation 9.

Mr. Chairman: Are we in agreement that we will strike out recommendation 8 and leave in recommendation 9?

On recommendation 10, do you want to get more specific than what is recommended here, that there be a range of penalties? I must confess I am uncomfortable with this.

Mr. Pope: Yes. What happens if the House says that a minister should be fired? If I were Premier, I might say, "Thank you very much for your advice."

Mr. Chairman: The part that makes me uncomfortable is actually in the text. It has to go through the process of a reprimand, a fine and repayment of any gains. I do not have a problem with disqualification from sitting in the House if someone lied to the commissioner. It seems to me that is ample ground for saying, "Disqualify this member." I have a problem with how you set up a system of fines that says, "Because you did not provide this piece of paper, pay us \$50." I am not interested in that; I am interested in only one sanction.

Mr. Turner: Can we disqualify anybody without a ruling?

Mr. Chairman: No.

Mr. Pope: If Mr. Warner did not show such interest in the Magna Carta, we might--

Mr. Warner: It is a commonly held interest.

Mr. Pope: I thought he had some proprietary interest in it because he uses it all the time.

Mr. Mancini: We have to look at recommendation 10 in a certain

ambience. Recommendation 10 will take place only after the member has gone through the elaborate procedures and followed the legislation, after the work of the commissioner has been done and after the Legislative Assembly committee has found one way or another that he did or did not disclose, which is now the new recommendation 8.

By the time all that happens, what situation the member finds himself or herself in will be very clear. If the person is in the cabinet, by that time he will already have been gone from the cabinet. If the person is a member, he could be censured by the House. That is about as far as I want to go. Once that person is censured by the House, the person's political career is over.

17:10

I do not think we have grasped yet the impact this legislation will have. The muddled guidelines between what was before and what is now will be gone for ever. This will have such an impact on members' disclosures and the way they conduct their business that by the time we get to recommendation 10, the situation will be in black and white for sure. Ministers will lose their jobs if they are found in conflict and members will be censured. Ministers may get both.

I am not for starting to make up a range of penalties and fines. Nothing more serious can happen to any one of us here than to be censured by our peers, to have a vote in the House or a motion passed or something that says, "We censure the member for not having complied with conflict-of-interest legislation." That person's career is done.

Mr. Bossy: What if it is minor information?

Mr. Mancini: If it is minor, the committee will say we should not take any action.

Mr. Warner: I am starting to agree with Remo. He is right.

You have to look at recommendation 10 in the totality of the legislation. If you take the worst case possible out of this whole system, it means dealing with a person who probably lied to the commissioner or others, a person who may have committed fraud. That is the type of individual you are dealing with. One of the things Remo did not mention is that as a result of the committee's work, it is possible to have criminal charges laid. That is a matter that should be dealt with by the Attorney General (Mr. Scott). It is a possibility.

Under our standing orders, we have provision to disqualify someone. There are situations under which the House can disqualify a person. Perhaps it would be more appropriate to have wording in there that indicates the sanctions are in the framework of the parliamentary tradition and practice, so all the penalties we now know exist in the Legislative Assembly Act are brought to the attention of the members.

Mr. Martel: What are they?

Mr. Warner: In the worst case, disqualification..

Mr. Pope: You cannot (inaudible).

Mr. Martel: I am not saying dollars and cents, Alan. I am simply

saying what worries me is that one might never get back to the cabinet. For political reasons, the Premier would be silly to put in a cabinet minister whom the member's peers or the commissioner had found guilty. That would be bad political judgement on the Premier's part. If that minister is put back in, he could conceivably get away with having a conflict. After getting his wrists slapped with a wet noodle, he would be back in cabinet.

Mr. Mancini: Not the way the committee will work.

Mr. Chairman: The problem I am having with this, first of all, is that the wording of the text is a little unsettling. I am not happy with the idea that the member is disqualified from sitting in the House, which, in essence, is an extension of the Speaker throwing him out for the afternoon. However, the member may enjoy all the other privileges of having an office, a constituency office, staff and so on.

You have it down to the point where it is clear there is unmemberlike behaviour involved. That is all that is left that the committee could ever get at. At that point, the current Legislative Assembly Act and the practices of the House would say: "That means you lied when you took your oath. You did not act as an honourable member, you are not qualified to be a member and you are out the door."

Under the existing act, as we heard in the hearings this summer, if you took it to the extreme range of what could have happened, those were the things we were looking at.

I would be unhappy with just saying you are disqualified from sitting in the House. That is not much of a sanction and gives somebody a free ride for the rest of the term. If you want to say something about sanctions here, I am interested that you clarify that the sanctions should be severe. You would be disqualified from being a member and lose all the rights and privileges of a member. You may be disqualified under the existing act from running again because you would probably be charged under the Criminal Code with various offences. What you have done would be tantamount to fraud.

When this is rewritten, if that is your pleasure, that is what would be proposed, rather than this range of penalties. I do not hear much of an interest for defining that.

Mr. Mancini: We should refer to the way the Legislative Assembly Act is now written, because there is provision to take action, and leave it at that.

Mr. Pope: What about a recommendation that a minister could no longer be a minister? Let us get back to Mr. Martel's point and see where we go from there. That is an administrative function. Mr. Martel says we may make recommendations about the ability of a member to remain a member, but we may want to have the power to tell the Premier that this person should not be put back in the cabinet.

Mr. Chairman: He is only a quasi-thief. He is crooked enough that he should not be in the cabinet but not crooked enough that we cannot allow him in the assembly.

Mr. Martel: What worries me is that if we leave it there, the situation now is that any Premier can say: "I will take my chances in the political arena. If it does not go down well, then I will take that chance."



I do not think that is right. If you have legislation in place and someone is caught lying--because he would have to lie if he were signing documents that said he did not have this, that or the other thing--and is proven to have a conflict of interest, what are we saying, then? He has this conflict against all the legislation you can set up. Just take a look around the Legislature. Most of the legislation we have passed, interestingly enough, is not for the masses. Look at that legislation some day and you will find that most of it is to catch the thug, the crook, the guy who is going to break the law. There are sanctions for doing that.

Here we say a guy can serve in the cabinet. He has the highest trust in the land. If he gets caught, it is up to the Premier to decide whether he goes back in. I look around Canada and see more than one instance where somebody should have been turfed out, thrown out, you name it. We are going to say it is up to one individual. The guy says, "He is my good buddy, and I am going to take care of him." Look at the case in Nova Scotia. It took two years of tremendous pressure.

Mr. Warner: And a piece of legislation.

Mr. Martel: Premier Buchanan should have been smart in the first place and said the guy has \$32,000 that he stole--

Mr. Mancini: That did not come up two years ago.

Mr. Martel: Yes, it did. It first broke two years ago. How much money do you want to put up that it came up two years ago?

Mr. Chairman: Do not bet with Mr. Martel these days; he is on a roll.

Mr. Martel: I get a bottle tomorrow from my friend the chairman, and I won \$25 this past week.

Mr. Warner: Where is the money, Mr. Mancini?

Mr. Martel: Billy Joe MacLean came up two years ago, and it took two years of all kinds of pressures. That is what worries me. I do not know what the sanctions should be, but to say nothing would be irresponsible.

Mr. Chairman: In the Nova Scotia experience a member was not only accused of fraud but also investigated and convicted of fraud, yet he could not be kept out of the assembly. That is the problem we are trying to get at. Special legislation had to be passed to get him out of the assembly. There was no means of preventing him from taking his place in the assembly and enjoying all the rights and privileges as a member, even though he had been convicted.

Our act is slightly different, but it is my intent that there be one sanction here that you are talking about, for practical purposes, and that is that the person would be disqualified as a member.

17:20

Mr. Turner: There cannot be any greater sanction than that.

Mr. Mancini: But is that not in the act already?

Mr. Turner: Yes.

Mr. Mancini: Let us just talk about that.

Mr. Bossy: Maybe I am going a little bit back, because I am still looking at the tail end of recommendation 9 on the top of page 9. The committee sort of accepted that: "where advice from the commissioner has not been sought or has been ignored, allegations of conflict of interest shall be referred to the standing committee on the Legislative Assembly for resolution."

That commissioner can pawn every decision onto this committee. The thing that troubles me is that, in looking at the sanctions, it all comes back to the sanctions we must do here in this room. We are back to the same thing we went through this past summer.

Mr. Chairman: No.

Mr. Bossy: Why not? It is automatic. The commissioner says, "He did not tell me this." He does not deal with it, because it goes to the standing committee on the Legislative Assembly to deal with those areas he did not tell him about. I am afraid of that.

Mr. Pope: I will follow up Mr. Martel's point. Then maybe Mr. Mancini can think about this, and see whether he has any response.

If I had been a member of the proposed committee that is going to sit pursuant to recommendation 9, now renumbered recommendation 8, and all of the Elinor Caplan information had come to me, I might have been disposed to say there was a conflict of interest by virtue of Wilf's conduct. I did not think Ms. Caplan should be in the cabinet for some period of time, but I did not think she should be disqualified as a member. However, if you are saying that my only option as a member of this committee are disqualification for a period of time as a member, do you want to make the choices that absolute for the legislative committee?

Mr. Mancini: No. What you are saying is very important. We have to have some leeway there.

Mr. Chairman: In discussing it with members of the other committee and our own over the summer, the part that most of us felt a great deal of discomfort with was not the fact that, in the end, a committee would sit in judgement of our peers. I do not think anybody was really happy with that, either, but we were prepared to accept it. The part we are poorly equipped to handle is the investigative part of it, the laying out of the facts.

If the commissioner were to table a report that said, "Here is what the allegation was. This is what happened. This is what you have to consider," I would not have any problem with the committee saying, "There was no big deal here," or "There was a serious thing here," or "This is a person who made some errors in judgement and maybe should not be in the cabinet."

Ultimately, the serious one, and the one I would have a problem with, is that I would really be reluctant to give to a commissioner, however fair and reasonable that person might be, the right to throw somebody out of the assembly of Ontario. In the end, only the assembly, or a committee of it, can investigate that, and only the assembly can actually turf somebody out. That is my problem.

Mr. Martel: I agree with everything you are saying, but what is worrying me is that I do not want to sit on a committee; that is why the range

as to be in here. I never want to be in a position where I have to say, "That guy has a conflict, and I am voting to turf him out." The sanctions are in there, and whatever those sanctions are, depending on the strength--

Mr. Mancini: You might be willing to vote to censure the member and have a roll call count--

Mr. Martel: But that is what I am saying. You need a range of things that you should be doing. I am not interested in fines or stuff like that.

Mr. Chairman: You are talking about a range, for example, as we would now find it in the Legislative Assembly Act.

Mr. Martel: It would have to be defined more than what is in that act. It is not clear enough there.

Mr. Chairman: Yes. We are in agreement that what we want here is a rewrite. We want to talk in terms of the Legislative Assembly Act and parliamentary precedents. Right? We are not talking about fines.

Mr. Martel: Imagine any of us sitting in here. It comes to this committee, we are in final judgement and we are saying, "We are throwing the member out"? God!

Mr. Turner: That is something the assembly should talk about.

Mr. Martel: Yes, but we would have to recommend it. That is what I am trying to get away from.

Mr. Chairman: Okay. We will do a rewrite of that section.

Mr. Pope: May I go to the next one now?

Mr. Chairman: Yes. I want to go to the next one, which is the last one. Before we start on this, I would suggest to you that this is a large and unwieldy field. I personally would be content to leave it much as it is, asking the questions, and we would study this further at another time.

For example, I have a group that has worked in the political science department at Sir Wilfred Laurier that has thought about this and drafted a bill. I would be happy to include stuff such as that in there for people's consideration.

If we did a recommendation on the matter, about as far as I could take you right now would be to say that lobbyists should be considered in some way, which is not much more than the list of questions Mr. Eichmanis has put in his draft.

It is a problem. It was certainly more a problem in the Caplan inquiry than in ours, but I do not know of anybody who has a system that works very well. The best I could point to would be American states and the Congress, where they put their names on a piece of paper. However, there is not much of a way to regulate this. You can identify on a volunteer basis. The federal government has considered this and been very slow to do much about it because it is pretty tough.

Mr. Martel: If you want some interesting reading, John Rodriguez's Private member's bill was debated about six or seven months ago. Some of the people who came before that committee went absolutely bonkers, I am told.



Mr. Turner: Lobbyists?

Mr. Martel: Yes. They went bananas, so to speak. We might try to get those Hansards.

Mr. Pope: "The committee seems in general agreement with this suggestion." I think that sentence should be taken out, and I will tell you why.

Mr. Mancini: Which one is that?

Mr. Pope: The third sentence in paragraph 11.

Mr. Chairman: The former minister stuff?

Mr. Pope: No. The sentence says, "The committee is in general agreement with this suggestion." May I say why?

Mr. Chairman: Sure.

Mr. Pope: I do not know how you persuade the public, just to look at it from the public's point of view, that it is any worse for Dennis Timbrell to be involved in Tridont and talking to the Minister of Health than it is for Bob Elgie to be hired by the government and leave his seat.

Mr. Warner: Do you want to try explaining that? I lost you.

Mr. Pope: Sure. You are talking about the potential for cabinet ministers to gain from the fact that they are former cabinet ministers.

Mr. Warner: Right.

Mr. Pope: How are, say, Dennis Timbrell's potential problems, if he is working for Tridont and contacting the Ministry of Health, something that should be dealt with and regulated, and yet there is no problem with a member of this Legislature resigning his seat and being employed by the government?

Mr. Warner: How does the member who resigned--

Mr. Pope: Who happened to be the former Minister of Labour and is now head of the Workers' Compensation Board.

Mr. Warner: What is the conflict?

Mr. Pope: He has benefited.

Mr. Turner: Yes, he benefited.

Mr. Pope: How do you explain that? See what I am saying?

Mr. Warner: How did he obtain the benefit?

Mr. Turner: It is the perception.

Mr. Martel: I agree with you to some degree, but where I disagree with you is that he is there. He is not trying to influence--

Mr. Turner: For his own gain.

Mr. Martel: For his own gain when he is chairman.

Mr. Pope: But he is directly being--

Mr. Warner: He is employed by the government.

Mr. Pope: He has gained from the fact that he was a former Minister of Labour and that he was a member.

Mr. Turner: But that was not necessarily--

Mr. Warner: That is entirely different.

Mr. Pope: No, it is not; not from the public's point of view. What would we say if we hired our chairman to be the first complaints commissioner?

Mr. Martel: Oh, shit, we are in trouble.

Mr. Pope: Am I out of order?

17:30

Mr. Chairman: That is part of the problem. I am at a bit of a loss as to how precisely to proceed. The simple registration concept is by and large supportable, but when one gets past the point of trying to define who is a lobbyist, that causes me some problem. For example, there are lots of citizens' groups who come to all members and say, "Here is a problem, and we want to tell you all about it." Who would be silly enough not to at least listen to them? They are, in effect, lobbying, because they are giving you information from their perspective.

I have no great problem flagging the difficulty in saying that once you cease to be a member, you cannot take that and trade on it. But I have difficulty right there, because it may be the fact that you were a member of the Legislature that makes you an attractive person in the public sector, where you can define it.

But what about in the private sector, where you cannot define it? It may be your contacts as a legislator that make you an attractive person to be hired by a company, and in a sense, you are trading on your skills as a legislator or the people that you met over the years. It is a very thorny field. I want to get into it, but I do not want to do it quickly.

Mr. Martel: The one that bothers me most is when you take a cabinet minister who resigns--and Pope will know whom I am talking about--and who ends up as an adviser to a pulp company. I am not saying the man was crooked; I think he is as honest as the day is long, quite frankly. But that is the type of case that bothers me. When he leaves here a cabinet minister and two days later, after the election is over, he is hired by a company, you know he is being hired to lobby on the basis of the skills he acquired when he was here and that he may try to influence a government policy. I do not know how you deal with that, but I think there is agreement; all of us have the same concern. How do you deal with that problem?

Mr. Pope: I have been faced with it myself. I do not go to court, because I am a former Attorney General. It has been well over a year since I was Attorney General. I still do not go to court; I do not get involved.

For instance, I am representing the private tree growers in an arbitration with the Ministry of Natural Resources for free. I am not benefiting one cent. I am doing it for free because they have some serious problems. I am not involved with them financially; I never would be, because I am a former Minister of Natural Resources, and that is two and a half years ago.

I think former ministers are conscious of it. I do not know where you are drawing the line, Mr. Martel.

Mr. Martel: Over my years, not all of them.

Mr. Pope: What is the difference between René Brunelle and Bob Elgie? I mean, really.

Mr. Chairman: The stickiest problem of all is that if, for example, some group comes to me as a member now and says, "Here is a cause we believe in. Do you believe in it?" and if I say yes, I will do all kinds of things for them. I see that as part of my legislative responsibility.

If tomorrow morning I quit being a member and I have to feed a family and meet a mortgage requirement, I might be happy to do all of those things; those might be the skills I have in the free market. But I cannot then afford to say: "I have no paycheque and no source of income, so if I take your compensation case, I am going to have to do what the lawyer or the advocacy group does. I am going to have to make a living out of this." I do not really want to put in place things that would prevent a member, the day after he is defeated in a general election or resigns--do we have any right to inhibit their income after they are no longer members?

Mr. Turner: Not in any way.

Mr. Chairman: I have difficulty with that concept.

Mr. Mancini: I have two girls I have to send to university, you guys.

Mr. Chairman: I would suggest that section 10 stay roughly as it is.

Interjections.

Mr. Mancini: Mr. Pope wants that one sentence scratched out.

Mr. Chairman: Give us some direction on that.

Mr. Pope: Scratch it out.

Mr. Warner: Why?

Mr. Chairman: Because the majority of members on the committee say, "Scratch it out." It is called nose counting.

Mr. Warner: If you are going to water this down--

Interjection: No, we are not.

Mr. Warner: You are mentioning only--

Mr. Chairman: I was just going to go back over the revisions now.



Interjection.

Mr. Warner: Just a minute. You mentioned lobbying, and unless I misread it, it is lobbying as related directly to former ministers. Are you saying it is permissible for a person to be a member of the assembly and to be a paid lobbyist?

Mr. Chairman: No.

Mr. Martel: No. All he said was to drop one sentence. He is not saying anything.

Mr. Chairman: Let us go back over the points about which people raised concerns.

Mr. Dean: I am sorry if you have covered this, but I was out. I got into another committee. Was the issue brought up in the discussion of a minister specifically not being permitted to do anything of what you might call a lobbying nature at all for six months?

Mr. Chairman: That is what we just did.

Mr. Dean: I did not see anything about six months there.

Mr. Chairman: The first occasion when we ran out of consensus was fairly early on; it was on page 3. I did not hear any suggestions for rewrites there. The notation I have is that the Conservatives are not happy with the recommendation. Do you want to vote against it or are you talking about putting in a dissent or something such as that?

Mr. Dean: Are you talking about page 3?

Mr. Chairman: Page 3, the second recommendation. What it says to cover all members is on page 4.

Mr. Dean: What we object to is the one at the top of page 4. We think it should be just ministers and parliamentary assistants.

Mr. Chairman: I have that. Do you want to vote against that, put in a dissenting opinion or what?

Mr. Dean: A dissenting opinion.

Mr. Chairman: Okay. The next one I have marked is on page 4, civil servants. Do you want to pursue this and try to define that level any more? I sense that the majority of the committee wants to leave it for the legislation to do.

Mr. Turner: I think it is going to be difficult to do.

Mr. Dean: We should make sure they understand we have not really defined it.

Mr. Chairman: Yes. The next one I have marked is on page 5, the public disclosure section. It is the same objection again. Shall we deal with it the same way?

Mr. Dean: Okay.

Mr. Chairman: The next one is on divestments and trusts. We needed a rewrite on the latter part of the first paragraph. John, what do you have?

Mr. Eichmanis: As I understood it, the rewrite should include something in the text relating to the options available to the commissioner to advise that in some circumstances where there is, for example, a private company, you would want to leave it as is and simply disclose it. In the case of a public corporation you have shares in, you might not have the matter put into a trust, but you may also be forced into actual divestment, selling of the shares, if the circumstances warrant that advice.

Mr. Chairman: Let me stop you there. In the rewrite of the text, not in the recommendation but in the text, we would be making it clear that the commissioner may use all these options at his discretion. He may recommend the use of all of these.

Let me go to the recommendation on page 6. To clarify it, I have marked in my notes that the committee wants to extend that any trust provisions that are available for cabinet ministers would also be available for ordinary members.

Mr. Dean: Yes.

Mr. Chairman: All right. That is the way that would be.

The next mark I have is on 6. There was questioning of "that consideration be given to including close family relatives, requiring them to make a public disclosure statement when the minister has common business interests with that relative."

Mr. Turner: Yes, that is right.

Mr. Chairman: It would now read "that consideration be given to including close family relatives, requiring the minister to make a public disclosure statement when the minister has common business interests with that relative."

On page 7, will it end after the second paragraph.

Mr. Warner: Hold on.

Mr. Dean: You are starting from the top of the page.

Mr. Chairman: On page 7, the top two paragraphs will remain and the rest is deleted as is section 8.

Mr. Warner: Hold on. I am unhappy with this. I was not clear at the time. It says, "The question remains whether the same rule should apply to ordinary members." From there on I understood that the Conservatives were opposed to the wording, but I was not clear as to where the Liberals stood on it.

17:40

Mr. Martel: They split on it.

Mr. Bossy: On the wording of section 8?

Mr. Chairman: Section 7, as it would now be put into the report, would include the first two paragraphs; we have agreement on that. The disagreement came about on whether it should go any further. There are some other ways one can do it. There would be no recommendation on this--

Mr. Martel: Do you know what worries me? They voted for a motion just a week ago and in their great lust to vote for the motion by Mr. McLean, which talked about double-dipping and everything else that goes along with it, no one mentioned the former Premier was double-dipping by being on the board of directors of General Motors or whatever the hell it is and that certain members are working in the federal courts. Then you come along and you have the motion and you come here today and talk about, "No, you cannot have outside interests." You want it both ways. In the House you move it and here--

Mr. Turner: I think there is a different principle.

Mr. Martel: There is no different principle. Shit on that. In the House, you are saying that people--

Mr. Chairman: Should you not be clearer in your objection?

Mr. Martel: Yes. You should not be engaged in double-dipping, but you can double-dip when you are in the House.

Mr. Turner: No.

Mr. Martel: That is what you are doing.

Mr. Turner: No.

Mr. Martel: It is only in your imagination that it is different, my friend.

Mr. Turner: If the members are not going to be compensated for the full value of their positions--

Mr. Martel: You guys were in power for 43 years; not one of you had the courage, besides me, to say it.

Mr. Turner: I am not making excuses.

Mr. Martel: I got pissed on by you every time I did.

Mr. Chairman: I sense there might be a dissenting opinion.

Mr. Martel: There will probably be a dissenting opinion.

Mr. Chairman: All right.

Mr. Warner: This is what I am unclear on, where the Liberal position is on this. If it is coincidental with ours, then the dissenting opinion lies with the Tories.

Mr. Chairman: Let me hear you now. For example, it would not be difficult to put in a recommendation that in essence took the last paragraph and rewrote it to read something like, "If you choose to restrict the outside



business activities of ordinary members, you would have to indicate that adequate compensation for members should be part of this provision on the basis that if members were prohibited from engaging in outside business activities, they would have to be adequately compensated."

Mr. Turner: That is not part of the Aird report.

Mr. Dean: If that is not part of this, I would not be in favour of that one.

Mr. Warner: I realize that. I want to find out where the Liberals are.

Interjections.

Mr. Bossy: You heard my views on that.

Mr. Warner: Are you prepared to support the reworking that the chairman just mentioned?

Mr. Bossy: I can support this if it is--

Mr. Warner: Okay.

Mr. Chairman: Let me hear a motion. You want words put here.

Mr. Warner: No. You made a suggestion. Oh, I see what you are getting at. I will move that section 7--

Mr. Martel: --be retained as is.

Mr. Warner: No.

Mr. Chairman: No. You would have to do some rewriting on it.

Mr. Warner: Yes, there would have to be some rewriting. I move that section 7 contain paragraph 1 as printed, paragraph 2 as printed and the following--whatever you said.

Mr. Martel: Oh, no.

Mr. Warner: Just a minute.

Mr. Chairman: Let me try this.

Mr. Warner: That the outside business activities of ordinary members be restricted on the provision that members receive compensation which adequately reflects the responsibility.

Mr. Chairman: Can I make another suggestion while you are framing your motion?

Mr. Warner: Yes.

Mr. Chairman: In the course of debate, you made reference to the report of the Commission on Election Contributions and Expenses. Why do you not get specific and say something like, "If you want to restrict the outside

activities of members, you should adopt the election expenses commission report"?

Mr. Martel: The real thing you have to say is--we established the election expenses commission to establish remuneration for members--

Mr. Turner: Beyond the reach of members.

Mr. Martel: No, for members, as one of the tasks given to them. One man in each instance has been able to say: "I do not care about what we established. I do not care what you need. God has ordained that you shall not have that report." You either throw the god-damned thing away--

Mr. Chairman: Mr. Martel, you are getting a little unparliamentary.

Mr. Martel: The whole election expenses commission is phoney. Bill Davis chose to ignore it when it was convenient and David Peterson now is choosing to ignore it when it is convenient. Neither pays any attention to it. Why have it as part of their mandate?

Mr. Dean: This is another issue.

Mr. Turner: This is the wrong platform for it.

Mr. Chairman: John has a proposal.

Mr. Eichmanis: "If the outside activities of ordinary members are to be restricted, then the members should be compensated on the basis of the decisions of the Commission on Election Contributions and Expenses.

Mr. Chairman: How is that? It would now read that we would have the first two paragraphs. I think we want to say we concur and then the next words--so we add the words "we concur" and then, John, what is the rest of it?

Mr. Eichmanis: "If the outside activities of ordinary members are to be restricted, then the members should be compensated on the basis of the decisions of the Commission on Election Contributions and Expenses.

Mr. Chairman: Are we in agreement with that? Shake your head.

Mr. Turner: Not really. It is the wrong place for it.

Mr. Bossy: We are still not really identifying the fact that--

Mr. Turner: I do not really disagree.

Mr. Chairman: We are identifying a specific number in fact.

Mr. Bossy: No. The part I feel uncomfortable with is that we are saying the election commission, but we are not identifying the fact that the increases in salaries being voted on--we do not bring this out because--

Mr. Chairman: Yes, it does.

Mr. Bossy: It does not come out that we are in conflict of interest by voting on our own salaries. We are using that as a--

Mr. Chairman: I am trying to get some consensus here and I think I

see it. Read it again, John. The proposal would be that the first two paragraphs would be included. We would add the words "we concur" and the words--

Mr. Eichmanis: "If the outside activities of ordinary members are to be restricted, then the members should be compensated on the basis of the decisions of the Commission on Election Contributions and Expenses.

Mr. Chairman: That is the proposal. Are we in agreement? Okay. We are in agreement.

Section 8 would be deleted.

Mr. Dean: Note the dissent.

Mr. Chairman: Right; two dissenting votes.

The section on sanctions will be rewritten so that there is not really a recommendation, but the text will reflect that any sanctions will be as currently set out by parliamentary practice, precedence and the Legislative Assembly Act. That is the way that section would read.

The next deletion is in section 11. The proposal is to delete the words, "The committee is in general agreement with this suggestion." Are we in agreement that should be deleted?

If you would like, I think I am in a position where we can take a motion to adopt the report and move it to the assembly for its adoption. The deletions are now in the text and any alterations would be only in the text. Is there any objection to that?

Mr. Dean: I would like to see a copy of the final thing before it goes anywhere.

Mr. Turner: Are we going to discuss this lobbying in more detail?

Mr. Chairman: No, as it now would stand in the report, what would go in the section under lobbying would be simply the text that is here, with that one deletion. Do I have a motion to adopt the report?

Mr. Turner: Including the questions?

Mr. Chairman: Yes.

Mr. Turner: We are not going to reach any conclusion on the recommendations?

Mr. Chairman: No.

Mr. Martel: I am like Mr. Dean. I would like to read the whole thing in its entirety and I would like to get it ahead of time. Nothing burns my manny more than to come in to start to discuss a report and the report is handed to me when I come in.

Mr. Chairman: Okay. If that is your gripe we will stand it over until next week. You will see a redrafted report and we will have a vote on it then.



Mr. Martel: Can you make sure we have it a day ahead of time?

Mr. Chairman: Anybody who has any dissenting opinions can put them in. If you want them included in the draft, put them in.

The committee adjourned at 5:50 p.m.



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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CONFLICT OF INTEREST  
STANDING ORDERS  
ORGANIZATION

WEDNESDAY, DECEMBER 3, 1986





STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Dean, G. H. (Wentworth PC)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Warner, D. W. (Scarborough-Ellesmere NDP)

Substitutions:

Callahan, R. V. (Brampton L) for Mr. Bossy

Hart, C. E. (York East L) for Mr. Morin

Pope, A. W. (Cochrane South PC) for Mr. Villeneuve

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

Witness:

From the Legislative Assembly:

Forsyth, S., Assistant Clerk

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, December 3, 1986

The committee met at 3:30 p.m. in room 228.

CONFLICT OF INTEREST

(continued)

Mr. Chairmen: I do not think there is any sense in pursuing the matter any further at this committee, because the legislation has, in fact, been tabled. Let me leave it at that. To tell you the truth, I was a little disturbed that the legislation was tabled before the committee had tabled its report. I thought there had been sufficient communication on this on all sides that this would not have occurred, but it has occurred.

I would of course be happy to entertain any kind of motion, and any kind of motion would be in order. The staff has done a fair amount of work on this and so have all members. It is in its final form. It awaits, frankly, the final motion or motions to approve it. It seems to me that we should at least recognize the work the staff has done by finalizing the report and tabling it with the assembly, but that is in the hands of the committee.

Are there any motions from the committee?

Mr. Martel: I simply want to indicate that the next time some work is submitted to this committee, unless we get a guarantee that some damned minister is not going to play games with us and bring in a report or a piece of legislation the day we finish the rough draft of a report, I am not prepared to sit and look at the material or anything they are going to send to us.

It is the most offensive thing I have seen in a long time that something is sent to this committee and then the Attorney General (Mr. Scott), new boy that he is, totally ignores the committee and the members who have spent time doing the work, brings in this piece of legislation and thumbs his nose at the work we have done. I find it offensive and more than a little bit arrogant for a guy who has been around here a sum total of 17 months. I find it the height of arrogance that he would table a piece of legislation the same day he knows we are to finalize a draft report on something that was sent to us by the Legislature, the chamber itself.

I will not look at anything submitted to us by the House unless we get a guarantee that there is not going to be some sort of arrogance by someone like Scott or anyone else. That sort of performance is totally unacceptable and I just will not have anything to do with it in future.

Mr. Pope: Mr. Chairman, you and I disagree on a lot of things, maybe almost everything. The one thing I do respect is your long-standing commitment to improvements to the processes of this place, the commitment of the staff in working on various drafts of this report and the commitment of all members of the committee, including the members from the government party, who worked in good faith to try to get something that would be workable for all members, including cabinet ministers of the Legislative Assembly of Ontario. I respect the good-faith efforts of all the members, including the members of the

Liberal Party, and I would be the first to recognize publicly your commitment to this work and the commitment of the staff.

This Attorney General thinks he knows better than everyone else in this place. It has been clear in his attitude from the very beginning. He has no time for the rest of us. He has no time for other points of view. He has that same approach to just about everything he has done as Attorney General. It is unbecoming of his office, quite frankly, and it is unbecoming of the government.

Having had some experience in the internal processes of the drafting of legislation, I think it is clear that this bill was drafted a long time before we got down to some substantive decisions on what we wanted included in and excluded from the recommendations of the committee report--a long time. They have embarked on the whole issue of conflict of interest in a process of deception and game-playing that has been unheard of for a long time. We have had seven different studies and two different committees looking at conflict of interest, and through it all we have had an Attorney General who has been merrily proceeding on his own way to draft his own legislation. Even the titling of the legislation is designed to cause mischief, if I may say so. It shows a complete contempt of the Legislature, particularly of the legitimate efforts you have made over a long period of time.

Our party would like to make a motion to recognize the efforts of the members of this committee, and particularly the chairman, to reform this very important area of the Legislative Assembly's business, and to recognize the efforts of the staff. I hope their work will be a reference guide for the members of this committee who will speak on the new legislation. We have no intention as a party of participating in anything that will legitimize post facto the attempts of the Attorney General to take this issue as his own. The members of the assembly have the right to govern conflict of interest and the provisions that will guide their conduct, not one man.

Mr. Warner: What we might do is to send a report from this committee back to the assembly indicating that our committee has completed its work on the Aird report but chooses at this time not to reveal the results of that work because of the pre-emptive action of the Attorney General. The motion would, of course, acknowledge the work done by the staff and the fact that the members now are better apprised of the entire field of conflict of interest; but because of the actions of the Attorney General, we do not feel compelled to report back the precise findings of our work on the Aird report. Instead, of course, we will deal with the actual legislation when it is referred to this committee.

There has to be some message from this committee back to the Attorney General that it is unacceptable behaviour on his part to treat the committee in this way. Personally, I felt as though I had been cheated. I had been given the impression that there was important work to be done. I took it seriously, as all members of the committee did. I read the material. We discussed the matter in several consecutive weeks, and all of that work was almost for nothing, other than the fact that I understand the area of conflict of interest better now than I did previously because we have studied the Aird report.

But basically, it did not matter what we did, because the Attorney General had already decided what he was doing and he was not particularly interested in consulting with us. If he chooses to act in what I guess, to be honest, is really an arrogant way, then I have not seen such arrogance since



the days when Albert Roy's bill was killed outside the House. There needs to be an appropriate response from this committee back to the House, and thus to Mr. Scott.

Mr. Treleaven: I have two things. First, I agree with Mr. Martel's comments. I would heighten them by saying that this follows immediately upon the heels of our year-and-a-half-long process of appointments in the public sector, in which we put in our report and the entire guts of it were taken and we were told, "Thank you, but no thanks." It was a very backhanded slap to this committee and its year and a half of deliberation.

That is followed by not even the courtesy, not even the lipservice of awaiting our report, and then by disregarding it. That, not even regarding the fact that we were studying the matter, just heightens the entire situation. As I said in some words in the speech in the House, I, like Mr. Martel, have a lot of other important things to do to take up my time and I have no intention of getting heavily involved in another project unless I know there are some bona fides behind it. I agree with Elie.

Secondly, I agree with David, although I would like it couched in much stronger words than even David was saying. I would like the results of the committee's deliberations to be as strong a protest as possible.

15:40

Mr. Mancini: I understand the feelings of the committee members and I will not take issue with anything said this afternoon. The only thing I will say is I do not feel our work has in any way been wasted.

The report on the report we have prepared is a substantial piece of work. If we believed in what we did and what we said in this report, then we can still continue to work together as a team and incorporate what we believe into the legislation that will be sent before this committee.

We can still, as a committee representing all the members of the House, ensure that is what we do: represent the views of all the members and the majority of the members.

I understand everyone's regrets and understand everyone's--I do not want to say outrage--

Mr. Treleaven: That is not a bad word.

Mr. Mancini: I guess at the time there was some outrage. I do not think our work has to be wasted in any way. I know the Liberal members on this committee are very anxious to work with the other members here and continue to work to incorporate what we have done, if we believe in it, into the bill.

Mr. Callahan: I am only sitting in today, but I observed the process before in dealing with colleagues in this Legislature. All of us would probably agree that the forum of a legislative committee was inappropriate and the rules were very unclear as to how people might determine whether they were acting appropriately or inappropriately.

I agree with Remo and the comments he has made, but I would like to at least say, in defence of one our colleagues in the Legislature that the Attorney General recognized the need--as every member of this Legislature would--to come up with a humane way of dealing with colleagues who are in breach of the guidelines.

Quite frankly, any one of us as members, or even as members of the executive council, would find it very difficult or uncomfortable to determine whether we had, at this point, even complied with the guidelines laid down in the past by the previous government and, as came out in the hearings, changed by the existing government. For that reason, the Attorney General, who is charged with the responsibility of making certain we all observe the law, was anxious to get something before us.

Mr. Martel: Do not try and salve any of the wounds by what he did. He acted in a damnable, contemptuous way. The issue is not what you are discussing at all. He was arrogant.

Mr. Callahan: That is a matter each of us has to make his own judgement on.

Mr. Martel: You cannot rationalize this one.

Mr. Callahan: I am not disputing your judgement. If that is the way you judge it, that is the way you judge it. However, one has to look at it in the broad area--the broad look at it--that we were all anxious to get something definitive so that everyone would be able to say, "Now that I have everything out of the way, I am now safe, I am now clean and I am not going to wind up in a horrendous mess."

Any member of this Legislature, unless one is prepared to set partisanship aside, has to agree that the ignominy and the experience that two of our colleagues in the Legislature had to go through was sometimes a little dehumanizing and something I found reprehensible and something I could not, as a member of the Legislature, ever allow to happen again to any colleague of whatever political stripe.

I simply say that. As I say, Elie, your judgement may be that the Attorney General was arrogant. I prefer to take a broader look at it and say that within his function as Attorney General, he was trying to remedy that matter as quickly as possible. He may well have done it too quickly in terms of this committee, because it has been looking at this. Again, we should not be making snap judgements about how one of our colleagues in the Legislature is acting.

Mr. Pope: May I offer a solution? I want to reiterate what I said at the outset, that all members of all parties on the committee worked on this report in good faith. To follow along what my friend from Magna Carta--

Mr. Chairman: You have all kinds of new friends.

Mr. Pope: I will rephrase that; the member for Magna Carta. I have to admit that we were tempted to put our position and get the hell out of here, but that does not help you or the members of the committee, Mr. Chairman. We might be prepared to work on some wording Mr. Warner has suggested and leave the report at its current stage for information purposes and allow you, by that resolution, to address these issues more fully in the Legislature on debate on the bill. That way we as a party will not be cutting the legs out from under you when you stand up.

Mr. Chairman: I suggest that we look for a simple motion to adopt and table the report with the Legislature and leave it at that. If you want to be creative and respond to whether you think the Attorney General's actions were appropriate, we would do that by means of a separate motion. We would divide the two statements. Do you want to move to adopt and table the report?

Mr. Warner: As is Alan, I am a bit frustrated about this whole thing. I presume there is an obligation on us to report back.

Mr. Chairman: Yes.

Mr. Warner: We were given a direction by the House; to a certain extent, whether the direction was undermined by someone else is irrelevant. In procedural terms, we were given a direction by the House and we have an obligation to follow it. There will be hurt feelings and so on, but I suspect that what we have to do is to report back. The document is already public.

Mr. Pope: Obviously, if we introduce a resolution saying what we think of the Attorney General, they are going to vote against it.

Mr. Dean: Even if they may agree.

Mr. Chairman: I would not be too sure.

Mr. Pope: Because of what the Attorney General did, I am not prepared to accept a motion adopting the report. I am prepared to accept a motion reporting progress on the matter to the House, but I am not prepared to finalize a report the Attorney General has pre-empted.

Mr. Chairman: Somebody give me a motion.

Mr. Warner: I will make two separate motions.

Mr. Chairman: Mr. Warner moves that the committee adopt the report with the dissenting opinion as filed with the clerk by the Progressive Conservative caucus.

Mr. Warner: Is that a proper motion?

Mr. Chairman: Do you want the dissenting opinion filed with the clerk that way or do you want it rewritten?

Mr. Warner: Do not dissenting opinions normally go with the report?

Mr. Chairman: If they want a dissenting opinion, which they should have an opportunity to include, do you want it in this format or do you want to rewrite it?

Mr. Dean: This was a simple, positive way of having it registered here.

Mr. Pope: If this is the final report, I am not prepared to debate it today. I have some comments on it. I am not prepared to debate it because, obviously, the Attorney General has pre-empted this whole exercise. I am prepared to say this represents substantial progress on the issue. It is a substantial improvement. I am prepared to say in a PC report the reason we are voicing our objection is because of the processes engaged in by the Attorney General.

15:50

Mr. Chairman: That is why I want to make clear that there is an opportunity here. There is no problem. If you want to attach these two pieces of paper to the report and put it in, we can do it, but it is a little



sketchy. You might prefer to take a day or so and write your dissenting opinion. Is that your preference? The motion is to adopt the report and table it with the assembly. You have a day or so if you want to--

Mr. Mancini: Mr. Pope's motion was to report to the House that there was progress.

Mr. Warner: The motion now on the table is to adopt the report. I wish to make a second motion.

Mr. Chairman: The motion is to adopt a report that would be presented to the assembly.

Mr. Dean: I would like to be sure I understand the process you are recommending concerning our caucus's dissent.

Mr. Chairman: You would write a dissenting opinion, which I ask you to give to the clerk by some time tomorrow, and we would attach it to the report.

Mr. Dean: It will be taken as part of the report?

Mr. Chairman: That is not part of this motion, but you have the right in this committee to table a dissenting opinion and we will attach it to the report.

Mr. Warner: We have always done it; I guess every committee does that. I have placed a motion.

Mr. Chairman: The motion before the committee is to adopt the report. Is there any discussion?

Motion agreed to.

Mr. Chairman: If you have a dissenting opinion, please submit it by noon tomorrow if possible. There is a second motion from Mr. Warner.

Mr. Warner: I have not prepared--

Mr. Chairman: You do not have to table it right now.

Mr. Warner: With your indulgence, perhaps we can get a consensus on the wording. "The committee regrets very much the pre-emptive action taken by the Attorney General. Such action is not only inappropriate in the normal protocol of committee work but undermines the work of committees."

Mr. Treleaven: How about "an insult" instead of "inappropriate"? It shows a deplorable indifference to the importance of the work of committees, if nothing else.

Mr. Callahan: It shows the urgency.

Mr. Treleaven: Oh come on.

Mr. Warner: I want to get--

Mr. Chairman: It might be worth while for us to think for a while and draft something, if you want to present a motion of the committee. It

would assist us if you would think about what would be in the motion, perhaps talk to other members and then present it. Then we could debate the motion and pass it or reject it or do whatever you want. It is going to be a little awkward to try to create the motion we will debate while we are doing it.

Mr. Warner: Okay.

Mr. Chairman: Maybe by the end of the meeting or at a subsequent meeting--

Mr. Warner: I will see what I can do. I will try to get a consensus because, to be candid, I would like a motion supported by all members of the committee. I do not know how you can tolerate what happened. I know it is embarrassing for you because it was one of your colleagues. The fact remains that what Mr. Scott did is not proper. What he did to each of us was to say, "It does not matter what you did for the past month."

Mr. Mancini: As I said earlier, Mr. Warner, we can continue with our work, insert our views into the legislation, change it or amend it if we do not like it, expand it or restrict it. You have the full support of the Liberal members.

Mr. Warner: Do you condone what he did?

Mr. Mancini: I am not going to go into a long debate about it, but I am not going to sit here in the committee and vote for any motion that is going to censure--

Mr. Warner: If this committee does not send out some kind of message about what happened, then all we are doing is allowing Ian Scott to continue to run a one-man show and do whatever he pleases whenever he pleases.

Mr. Callahan: Why do you not invite him here?

Mr. Chairman: Let me offer some suggestions to the committee. You may well want to invite the Attorney General to attend. You may get a motion such as that through. You may want to express what I sense some members want to express, that the timing was wrong and that the committee is upset not to have had an opportunity to present its report prior to the legislation being tabled. We can do it in a variety of ways.

Mr. Mancini: Can I suggest that we send to Mr. Scott the opening comments made by all of us? You made some comments. Mr. Warner, Mr. Martel and Mr. Pope did and then I did. Why do we not photocopy them and send them over with--

Mr. Chairman: We could even send him Hansard.

Mr. Mancini: Yes, that would be a good idea. The message would be loud and clear.

Mr. Dean: A motion of the committee is a lot more effective.

Mr. Chairman: Since you do not have a motion in front of you, let us not waste an hour of our time going around the block on this. If someone wants to put a motion, that is fine, but draft it carefully. If you want to get consent of all sides, you are obviously going to have to talk to all sides.

Mr. Treleven: We are really pussyfooting. Two of you were not here when Mr. Martel led off in a rather forthright way, as is his wont. I totally agreed with him. We seem to be pussyfooting and watering it down. It is an insult to this committee, not that we do not put in a report; that is spilled milk. The time we have spent that has been totally wasted is an insult by the Attorney General, the government and the government house leader or whoever permits this bill to be put in under the circumstances.

Neither Mr. Martel or I will be involved in further work with this committee unless there is some assurance--he said "guarantee"; I say "some assurance"--that if we are given instructions by the House the committee is going to be allowed to run its course and bring in a report to be considered. Otherwise, it is a totally redundant committee. We might as well chuck it and spend our time with our constituents.

Mr. Chairman: Any further spleen?

Mr. Dean : I feel just as strongly that we have been wasting our time. You will recall my mentioning at the last meeting the rumour that the government might want to introduce a bill. I asked what the use was of going ahead? The rest of the committee decided we would not do that, that we should go ahead or something. I now feel even worse to think that--after all, our time is supposed to be worth something. I like to do something that has a chance of being productive. When you get the government cutting the legs out from under us and saying, in effect, "We do not care what you guys say; here is what it says from Mount Sinai," or wherever its Olympian height is, it makes me mad. The stronger the resolution is, the better. I doubt the members of the government party are going to support it anyway. If you are drafting something, Mr. Warner, do not waste too much time making it conciliatory.

#### STANDING ORDERS

Mr. Chairman: The next order of business is the review of the provisional standing orders. I have some knowledge of this. I am told the House leaders have discussed their preferences in a preliminary way. I hear that the early discussion indicates they would rather not rush through a review of the provisional standing orders, but would rather extend the existing provisional orders until some time in the New Year.

I am in the midst of going through the draft responses from the Clerk's office to learn which ones got into the provisional standing orders and which did not. Smirle Forsyth has prepared in chart form what was in the fourth report on standing orders, what was acted on and any comments. We had some response from the members. Not quite half of them responded to the survey, but at least they had a chance to make their comments known.

16:00

While we can entertain some discussion about it today if you wish, I am rather attracted to the idea of taking our time reviewing the provisional orders. The last time the provisional orders were put in place, one of the problems was that a lot of recommendations for change were included in the report and not all of them were understood by the people making them. Some of them fell by the wayside for no reason other than that people did not understand what was being proposed. We have a little work to do on the process of how the provisional standing orders are put in place as permanent standing orders.



I have some concern that we will do a lot of work making recommendations on the standing orders, yet others who might not have spent time getting the background are as much a part of the decision-making process as we are. I suggest that in the next round we make some changes in the way we put the new provisional standing orders in front of the House.

I do not mind doing the work on this. We do the work in this committee. These 11 people put together a report. Three or four other players, who have not seen any of this, enter the picture. It is not very logical to think they can understand what is being proposed and either accept it or reject it. It must be hard for the members to do that.

I suggest that for today we take some preliminary comments. A motion would be in order if extending it is your preference. An extension into the New Year would probably be the most appropriate motion. I am trying to think of time frames. If the motion were to extend the standing orders for approximately six months, we would have time to go through this. Perhaps some time when the House is adjourned we will have an opportunity to do it in a little more detail. When we come back, we can go to work on the process part of it. Six months would take us into April, May or June, depending how you want to define it. Something such as that is the time frame we need to do the work on this. We have been joined by Smirle. Are there any comments from anybody on this?

Mr. Turner: I tend to agree with you. It is an important matter and it will require all our time to come up with a comprehensive review, a study and some recommendations. If it is in order, I will be happy to move a motion.

Mr. Chairman: Mr. Turner moves that the provisional standing orders be extended for six months to permit a complete review of the standing orders.

Is there general agreement? It is ostensibly for the purpose of review. Is there no disagreement?

Motion agreed to.

We can table a short motion in the House, which will do that.

It would be useful to take a quick run through some of the material we have. We have the replies to the questionnaire to date. Twenty-nine people think the new provisional orders met their expectations; eight said they did not.

Mr. Dean: Thirty.

Mr. Chairman: There is an update. Thirty have replied so far and I am sure there will be more. We have included some comments about the provisional orders in general and some replies where people made specific references to parts of the standing orders.

It will help Smirle, the clerk of the committee and others who will be drafting the subsequent reports if we can get some impressions of a general nature from you now. In particular, can you point out areas where you think there are problems, where people have come to you, perhaps in conversation, to identify something they thought was wrong that should be corrected? A fair number of wording changes will occupy our time, but there are also more substantive matters. Are there any general comments about it?

Mr. Pope: I do not know how you are ever going to bring order out of this.

Mr. Chairman: Let me put on the record a couple of things that have been brought to my attention by various members. There seems to be general happiness with the orders of the day. The members' statements, ministerial statements and responses, the question period, that part of it seems to be in fairly good stead. Estimates remain a problem. We did a lot of work on how one might handle estimates in a somewhat more logical, orderly manner. All of that got set on the back burner because it appears there was very little understanding among the whips at that time as to what exactly the committee was recommending. It appears that our work is cut out there.

I had heard from a number of people about private members' hour and the allocation of time there. There are some suggestions that it might be as simple as splitting the time evenly. I notice in sitting through private members' hours there are those who struggle to complete the 10 minutes. I wish I could convince them to sit down when they have said what they wanted to say; it is not mandatory that you do the full 10 minutes, but that is the problem with time limits. If you say it is a 10-minute time limit, everybody feels obliged to do 10 minutes. I have not heard much feedback on making alterations to the question period.

Mr. Pope: Just one thing: it is time to get a clearer list of what is parliamentary and what is not.

Mr. Turner: That is going to be difficult.

Mr. Treleaven: You mean language?

Mr. Pope: You guys are always changing it.

Mr. Turner: There are several things that have to be taken into consideration. It is not only what is said but how it is said.

Mr. Pope: If you smile, it is okay.

Mr. Turner: That is right. I think the Speaker has complete discretion to decide if it is a mean-spirited attack on somebody. Then they should be called to order. If, however, they say it in a jocular manner, as you say, with a smile on their faces, perhaps it is not as serious.

Mr. Pope: You were never very fair to me.

Mr. Turner: I never will be. That is just to--

Mr. Chairman: We do not have time to hear your confessions. We have only one afternoon a week.

On the hours of sittings, I hear very little supporting the notion that we return to night sittings of any kind. The arbitrary choice of whether we sat at 1 p.m., 1:30 p.m., or 2 p.m., and stop at 5:30 p.m., 6 p.m., or 6:30 p.m., is always going to be very arbitrary, having as much to do with the media peoples' deadlines as anything else.

Mr. Turner: I would support the two o'clock meeting, personally.

Mr. Chairman: You do not get up until 11:30 a.m. and it is time--

Mr. Turner: By the time I go to bed, it is an hour and a half--

Mr. Chairman: You have to tie your shoelaces.

Mr. Dean: As far as that is concerned, I know when we start at 1:30 p.m. there are some people in offices who find the lunch hour pretty cramped some days. I have found that problem myself sometimes.

Mr. Turner: Especially if you are making phone calls.

Mr. Dean: It might be worse for some of the members.

Mr. Chairman: The ministers do not really come on, though, until roughly 2 p.m.

Mr. Turner: They are well protected.

Mr. Chairman: Most members, if I may be so bold as to say it, do not actually show up until very close to two o'clock.

Mr. Turner: Yes, that is right.

Mr. Chairman: The first half hour is roughly given over to this, that and the other thing, but essentially private members' statements. Whether or not you want to make attendance compulsory for these magnificent orations, is a good question.

Mr. Turner: How can you?

Mr. Chairman: It seems to me the member gets what he wants when he has the floor for 90 seconds.

Mr. Dean: On that, I would mention that some people find it crowded. I recognize that some people are also not there for the first half hour.

Mr. Callahan: Why do we not have lunch in the chamber?

Mr. Turner: That is not a bad idea.

Mr. Dean: You would really make it a crummy place then.

Mr. Chairman: Is there much of a feeling that work should be done on question period and deportment? I am aware now that most members are getting lectured regularly from the folks back home, whoever they might be, about the noise in the chamber, the interjections and all of that. I think you should just leave that as it is.

Mr. Callahan: Oddly enough, you cannot hear them. Have you watched the television coverage? You do not hear anything. You hear "mutter, mutter," but you do not hear any of it at all.

Mr. Turner: You do not hear any interjections per se.

Mr. Chairman: It also seems that a fair amount of work has to be done to clarify committees and committee structures. That is kind of a mixed bag right now. Some of those provisional orders were accepted and some were not. Smirle, do you have anything to add?



16:10

Assistant Clerk: As the chairman has said, there are a number of small wording changes. There has been some concern about petitions. I am working on a proposal dealing with that, just to set out in more precise terms what should be in a petition. The requirement that the petition cannot call for the expenditure of money is a little silly today. That can be changed. The standing orders should spell out what the wording is to be on the top of the petition so that everyone can find out what should be in there, and they can all be in order.

During debate on the report in the House, Mr. Cureatz mentioned consideration of an assistant chairman of committees of the whole House. This committee may want to look at having a fourth presiding officer to assist with the work at the table of the House and also in the chair of the House. There is quite a bit of work and we find that if one person is away right now, it is pretty difficult to find anybody else to come in if we are in committee. It would be nice to have one extra person with training who would be able to come into the chair when needed. There are several other things, but the paper I am working on now should cover them all.

Mr. Chairman: We have given you the results of the survey to date, a breakdown of provisional standing orders from the fourth report which were accepted and some comments. We will let that simmer for a while. The motion gives us a little breathing space.

#### APPOINTMENT OF SUBCOMMITTEE

Mr. Chairman: I will report on a couple of other matters that may be of concern to you. One is the proposed method of dealing with complaints raised by members to the committee. I am sorry to report that it is not working. We are going to have to devise another technique. There is a need for a committee dealing with members' services. This committee has been designated to do that work.

I am torn with a conflict here. I do not want the full committee to spend a lot of time dealing with questions such as, "When is the cafeteria open?" But I agree that when a member raises a problem of that kind, there has to be a way to handle the member's complaint. Someone in charge of the cafeteria, or computer services, or someone else should not write a letter saying, "I have committed a sin." That seems to be the slight flaw in our method of referring these matters to the Speaker and he responds to us. I now have his initial responses. They may not have been circulated to the committee. I met with the Speaker and pointed out to him that I do not think this process is working and that some other device will have to be used.

The only constructive thing I can report is that we may consider striking a subcommittee as we did with security matters, and let the subcommittee deal with these items unless a full committee decision seems appropriate. You will see the response from the Speaker, and in the instances we referred to him, his staff reports back that nothing is wrong. A member of the House took the time to write to the committee to tell us that something is wrong, and a report in letter form which says "Nothing is wrong," is not a satisfactory explanation.

We may never get anybody employed by the government of Ontario to admit they are not doing their job the way everybody thinks they should. I would be surprised if we found a lot of those folks. If you want to, we could strike a

subcommittee which would be empowered to deal with matters of that kind and report to the committee. If you would rather think about that for a while, that is fine with me.

Mr. Warner: I have thought about it. You are right. The process is not working. There are members who have concerns and they do not believe they have a useful avenue to get their complaints heard. I would like us to strike a subcommittee, consisting of three members, which would set aside a regular time when it would be available to meet. Unless we determine that the subcommittee is going to meet at a stated time, the way this place functions, it will just slide. For example, if the subcommittee agreed it was going to meet every Wednesday morning, it may be that you do not have any agenda items on a particular Wednesday, in which case, a quick phone call means that members do not have to show up. You are talking about only three or maybe four members.

I would like to see us establish a particular date and a subcommittee. When the subcommittee meets, it can deal with the concerns members raise and can report back to this committee. That could be a very simple, straightforward process. As a result of reporting back, if there is something of substance to deal with beyond it, then the entire committee can deal with it. I can think of a number of major items which fall into the category of members' services about which the members should have a direct say and a direct voice.

I give as one example the whole restoration of this building, the most major project ever undertaken in the history of this building from the day it was first constructed. The members at this point do not have any avenue to voice their interests or concerns. Some members may be concerned that in the restoration of the building, for example, a clock should be installed or that there should be a new dining room, not in a subterranean location.

Mr. Chairman: You want to eat above ground.

Mr. Warner: Something above ground.

Mr. Callahan: That is where centipedes with the fallen arches eat.

Mr. Chairman: That is what causes fallen arches.

Mr. Warner: That is the cause of it.

There is no avenue right now for the members to voice their interests and concerns about that project.

Mr. Turner: Even a members' lounge.

Mr. Warner: Yes. Those are all legitimate items where the members have a legitimate stake and valid concerns and they should be heard. I suggest we establish a subcommittee and get on with it, and establish a particular time, date and place where we are going to meet. I, for one, will be prepared to volunteer to serve on such a subcommittee. That may drive away any other takers signing up.

Mr. Callahan: Move a committee of one.

Mr. Chairman: Is there general support for the idea that a subcommittee be used or that we attempt it? Are we generally in agreement?

Mr. Turner: The only thing I am little concerned about is the fracturing of this committee. We should give it some thought. Do we have enough time?

Mr. Chairman: We do not have enough time.

Mr. Turner: All right. That is all I wanted to know.

Mr. Chairman: With the general agreement that we strike a subcommittee, I suggest that, since I am sitting on the subcommittee dealing with security matters, maybe Mr. Mancini would chair the subcommittee on members' services.

Mr. Pope: Oh, my God.

Mr. Warner: This is a serious setback.

Mr. Chairman: The campaign is over and you have won. Do not blow it now.

Mr. Mancini: I do not have to take this job.

Mr. Callahan: It pays better than the one you have now.

Mr. Mancini: It pays the same.

Mr. Chairman: Okay. Can I get one volunteer from each caucus? Mr. Warner is volunteering. He is going to chair. We will let you find one other. Can we get John?

Mr. Turner: Sure.

Mr. Chairman: Okay, so that handles that.

Mr. Warner: Remo will find a particular day, regular meeting day, time and so on.

Mr. Pope: Are lunches paid for?

Interjections.

Mr. Chairman: I should report to you too that I have had some discussions with the Sergeant at Arms on security matters and I asked him to give us a little rundown on the kinds of things we should do because I would like the committee to become a little more active than it is now. I asked him to see if he could arrange a visit to the federal Parliament. There have been a lot of changes in the security system there. That probably will get done within the next few months, and then we will look at other places.

Mr. Callahan: Were they made in the last two years?

Mr. Chairman: Yes.

16:20

Mr. Mancini: Mr. Chairman, is there a reason the committee could not go to Ottawa sooner than the next six months?



Mr. Chairrna: No. In the next month or so, I believe, is really when we can go.

Mr. Turner: Mr. Chairman, may I offer a suggestion on that?

Mr. Chairman: Yes.

Mr. Turner: It may not be a bad idea for that committee to take a look at what is going on today.

Mr. Chairman: Yes, we are talking--

Mr. Turner: They have been through it.

Mr. Chairman: --and they are doing it in a rather different way.

Mr. Turner: Yes, they are.

Mr. Chairman: I would like to get some more information on that and then maybe we might check them out too.

Mr. Turner: Okay.

Mr. Chairman: The other matter that the new members' services committee might take on as a task--

Mr. Mancini: On our own business, Mr. Chairman.

Mr. Chairman: Yes. I am trying to get you a trip.

In Harrisburg, Pennsylvania, there is a renovation program under way for their state Legislature, and it might be useful to arrange a quick trip down there to get some sense of the problems they encountered, the ways in which they are financing and going through their renovation process. We have some information gathered on that. If you want to go, most of the work has been done on lining it up. If there is a desire on the part of the new member's services subcommittee to go, you might report back to us on when and where.

Mr. Pope: There is even a more extensive renovation program going on in Tallahassee.

Mr. Chairman: Tallahassee?

There are a couple of other things. We will have to schedule a little time to do a review of televising the proceedings. You may recall, we did a report on that and suggested we would let it run for a while. I ask you to turn your mind to that. I would also ask you in the next little while to take some time to look at, for example, the five short programs done along the lines we suggested, explaining the process.

I have had a chance to view them; and in my view, although they are not quite ready for an Emmy award yet, they do the job. They explain the legislative process. They explain the relationship of media people who are covering this. They explain the legislative library services that are available. Several other attempts have been made and more are ongoing.

My observation would be that there is still some difficulty with the coverage of committees and how that is explained and some general difficulties

in explaining the coverage of the proceedings during legislation, for example. There is, first of all, some equipment difficulty being encountered; and, second, they need a little time to try this out.

You may have noticed, if you were watching the monitor in your office, that day by day they are changing the way they print up the orders of the day and display that. Most of the comments I have got from members are quite favourable, but at some point we will have to begin a review of that.

I have also had a fair amount of correspondence on the provision of simultaneous interpretation, and there are one or two questions. I have noticed, in following it in the House, for example, it is apparent that the on-the-job training that had to happen is happening and a few mistakes are being made. There is some difficulty, but I do not know how you would get around that. This is something that is entirely different to people who do interpretation and they need some time.

The next item, the conflict-of-interest legislation, is about ready to go. That will probably be our next order of business.

Mr. Pope: Could I get back to the translation issue?

Mr. Chairman: Yes.

Mr. Pope: The only suggestion I can make to the members of all three parties, those who speak French, is once in a while in committee pick up the receivers and listen. I do not know if you have noticed, but the last two weeks in the standing committee on public accounts, I have taken the receivers and listened for half an hour or so just to check it out. Not only that, but I think it means something to the people doing the work.

Mr. Chairman: I would encourage you to do that. My knowledge of the French language is a little on the limited side, but I too can perceive when people stop interpreting that there is a problem. In following it, one of the difficulties is that people speak at different rates, and they are having some difficulty getting used to that.

There is also the question in committee, for example, where there is give and take. It is kind of tough to follow the process when the interpretation is not simultaneous. If it lags substantially behind the discussion, it lacks the coherence. I ask you to kind of monitor that for a little while.

To show you the good side of it, there are a number of people who have taken the time to write me and say, "Thank you for the service, but here is a real problem." So the service is being used.

Mr. Turner: You alluded to some equipment difficulties. I noticed when I was watching it yesterday--and I forget the specific incident--there was a time when one of the ministers got up to reply to a question, and the camera seemed to take an interminably long time to pick him up.

Mr. Chairman: I can explain that.

Mr. Turner: I thought they were automatic.

Mr. Chairman: No. The automated system is here. The problem is that it is attached to the new audio system, which is not installed yet. The camera

shots have to be lined up totally manually now by remote from upstairs. They are having some difficulty because it must be done manually. There is no solution to it unless the guys get a lot quicker or until we install the new audio system, which will be totally automated. That is the problem.

Mr. Warner: Just tell them to keep it a certain length of time on our angle when the House is sitting.

Mr. Chairman: Twelve weeks.

Mr. Warner: Twelve weeks?

Mr. Chairman: Yes.

Mr. Warner: We have to wait until there is a 12-week break when the House is not sitting for them to install the audio equipment.

Mr. Turner: Like next summer.

Mr. Warner: Or during the election.

Mr. Chairman: The other problem that has been brought to my attention is the continuing problem with the receivers for simultaneous translation in the chamber. There is a sound problem and there is a quality problem; those cannot be resolved until the new audio system is put in.

Mr. Warner: I have two items. Regarding the study on restoration, I circulated a file. I know it would be appreciated by the clerk if we could have a response in the next day or two so we know exactly who is going. There are arrangements to be made at the other end, and it would help the clerk if he knew by tomorrow or Friday.

Mr. Pope: Who is the chairman?

Mr. Mancini: He is the chairman.

Interjection.

Mr. Mancini: Just table your suggestions.

Mr. Warner: Just assisting, Remo. You need so much assistance.

Mr. Chairman: Any further business?

Mr. Warner: Yes, I have a motion.

Mr. Chairman: I was afraid of that.

Mr. Warner: You were afraid of that.

Mr. Chairman: Mr. Warner moves that the committee condemns the pre-emptive action of the Attorney General in introducing conflict-of-interest legislation prior to receiving the committee's report to the Aird report as instructed by the Legislature. The Attorney General's action is insulting to the Legislature and its committee and is contrary to established parliamentary practice and undermines the committee's effectiveness.



Mr. Turner: What is the point of that? This just confirms a long-standing suspicion on my part that committees are formed to keep members busy, out of trouble or out of the House or some place else. It seems to me if we are not going to take the committee system seriously--and I do not care which committee--we would be better dealing with our constituency business. I say that very sincerely.

You can rap him on the knuckles, but I do not think it is his fault. It goes much further than that; I think it is a government problem, with respect.

Mr. Chairman: Okay. We have a motion on the table. Let us entertain a little discussion about it and then do what you want with it.

Mr. Callahan: I move to set it aside.

Mr. Chairman: You want to move closure?

Mr. Callahan: The original suggestion was to send a copy of Hansard to the Attorney General. Does that not say it all? It has everybody's eloquence in there. You have given him the message; it is in Hansard. What is the point of the motion?

Mr. Dean: That is not effective enough.

Mr. Callahan: The motion will be filed. It is far more effective to have it in Hansard. What you are doing is gilding the lily, if you will pardon the expression.

Mr. Chairman: We have an amendment to gild the lily; or was it geld the Attorney General?

Mr. Warner: I understand what you are saying. The difference is--

Mr. Chairman: Go ahead, Mr. Warner. You have the floor.

Mr. Warner: The difference is that when you pass a motion in the committee, the chairman will report it back to the House. That is a more public kind of response than simply sending someone a copy of Hansard. I am sure the message will filter through as it is, but I would prefer a more formal response on behalf of the committee. I realize that because it is one of his government colleagues--

Mr. Mancini: Do you want to cancel that Harrisburg thing?

Mr. Warner: --Remo will be all upset. I understand that the whole thing is embarrassing to you guys, and I appreciate that. If I were sitting on the government side, I would be embarrassed by what the Attorney General did.

Mr. Callahan: May I finish, Mr. Chairman? If you send Hansard to the Attorney General, you at least give him an opportunity to reply yea or nay. I think that is fair.

Mr. Treleven: What is yea or nay? The bill is already there.

Mr. Callahan: It does not matter. I do not think it behooves us to talk about somebody and impute motives in his or her absence without giving him or her an opportunity to respond.

Mr. Warner: He knows the rules.

Mr. Callahan: Maybe he does.

Mr. Warner: He knows the procedure. He knows precisely what is supposed to be done around here. I served on committee with him. He is a very clever gentleman. He understands parliamentary practice and rules as well as anybody else. He knew full well what he was doing and why he was doing it. This is not some kind of naïve person who is meandering around in a field of daisies. He knew precisely what he was doing, and it was calculated. There has to be a response from this committee to that kind of nonsense.

Mr. Pope: Having weighed the evidence, I am convinced by Mr. Warner.

Mr. Warner: You are always won over by logic and reason, as witness the debate the other day.

Mr. Callahan: The comment has been made that we are all honourable members. It is presumptuous and unfair to presume a motive on the part of anybody, whether it is as clear as a bell, without giving that person an opportunity to respond.

Mr. Warner: Did you hear my motion?

Mr. Callahan: Just a second. Send him a copy of Hansard, perhaps with a letter from the chairman saying: "This is what the committee said. We would like a response." Give him an opportunity to respond. If he does not respond--

Mr. Chairman: I put the caution that if it is a letter from this chairman, it will be in language that will make this motion look very mild.

Mr. Callahan: That is fine. The major thing is that we are all honourable members. I do not think we try to convict a person in his absence.

Mr. Dean: We are not trying to convict anybody.

Mr. Callahan: You are in a sense with the motion.

Mr. Warner: You have missed the point.

Mr. Callahan: You have concluded already that the Attorney General did it deliberately as an affront to this committee. That is wrong. We are all honourable members. We have to give him an opportunity to say something.

Mr. Chairman: We have a motion. The motion is in order.

Motion agreed to.

Mr. Warner: Carried unanimously.

Mr. Chairman: Any further business?

Mr. Warner: Will that be reported back to the House?

Mr. Chairman: Yes.

The committee adjourned at 4:34 p.m.





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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY  
ORGANIZATION  
WEDNESDAY, JANUARY 28, 1987





STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Dean, G. H. (Wentworth PC)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Warner, D. W. (Scarborough-Ellesmere NDP)

Substitution:

Pope, A. W. (Cochrane South PC) for Mr. Dean

Clerk: Forsyth, S.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, January 28, 1987

The committee met at 3:25 p.m. in room 228.

ORGANIZATION

Mr. Chairman: We have a quorum. The chair is anxious to proceed today. Basically, we will be ordering some business on two or three fronts. First, we have had referred to the committee--and I will go over this very quickly--one bill, the freedom of information bill, and we are anticipating that we may get a second bill, the conflict of interest bill.

I can report to you today that to the best of my knowledge, although we have tried to have representatives with us from the office of the Attorney General, either the minister or his parliamentary assistant, that does not appear to be possible until the House prorogues. If we deal with those two bills, it is unlikely we will get at them until some time after the House prorogues. For practical purposes, we would need more than one day a week to do very much with them anyway. It is more likely they will be set aside until we have adjourned and have a couple of weeks of sitting time available.

We also have a resolution from Mr. Henderson which has been referred to the committee, that is a matter before us, and we have another matter before us referring to the member for Brantford (Mr. Gillies). We have a couple of recommendations, a report from the subcommittee on members' services and I will give you a quick one on the subcommittee on security.

In reverse order, the security subcommittee met this week and reviewed some proposals for security equipment for the building. We are attempting to arrange a one-day meeting with the security people in Ottawa. It now appears that may occur. I believe the date we are talking about is February 13. That is basically their report.

The subcommittee on members' services has a report for us today. I understand it is a fairly lengthy report on their visit to Harrisburg and the proposals around renovations. What I am going to recommend to you is that when they come in--and they are fairly substantial--I ask the subcommittees to simply table the reports in the first instance, give the rest of the committee a week to look over the recommendations and we will deal with them at the next meeting.

Do you want to table that report formally now?

Mr. Mancini: Yes. Mr. Chairman, in my absence, Mr. Warner substituted for me as chairman yesterday and the committee approved the draft report. There are a couple of recommendations that have been approved by the committee for the full committee's thoughts and deliberations. If anybody thinks going to Harrisburg in the middle of the winter is a junket, he can be my guest any time. I want to thank the members on the subcommittee and I want to thank Smirle for his help, and also David for substituting for me yesterday. We will be glad to table this and talk about it next week.

Mr. Chairman: We will take that as a motion to adopt and table it now. Did you want to say something?

Mr. Warner: Just briefly, if members were so inclined to read the report, which I recommend, the two recommendations are contained on page 5 of the document. There are only two recommendations which we are asking the full committee to consider. Our subcommittee had reached a consensus and the four of us had agreed on these recommendations, but it comes for report to the full committee next week.

Mr. Chairman: The next matter we have to deal with is the organization around the reference concerning the service of a writ on the member for Brantford. We have been receiving almost daily additional information, documents and requests around that. I think we have provided you now with all of them. We put them in binder form as quickly as we could and I ask you to retain that. I suspect this binder is going to get filled, the way things are going now.

We have a request from the Ontario Public Service Employees Union, Local 593, to appear before the committee on a matter related to that. It is not directly on that particular one but it is related and you have a copy of that letter. I think I will just leave that with you for now. We can probably make arrangements at a subsequent meeting. There does not appear to be any urgency to that request, but I wanted to get on the record that they wanted to appear before the committee.

1530

To the substance of the matter, I might make a couple of opening remarks on our discussions on ordering this business, and perhaps in doing so make some recommendations to you. This is not going to be a one-day event. Unlike the point of privilege of the member for Riverdale (Mr. Reville) and of others, this is going to be closer to the deliberations of the member for Cochrane North (Mr. Fontaine). It is going to take a little while. It would be awkward to try to do that while the House is in session, doing it only one afternoon a week, so my initial recommendation would be that we learn from our experiences over the summer and take our time in getting ready for these hearings, making sure we have as much information as we can before we begin, so there are as few surprises as possible afterwards.

In doing that, we are forced into a situation where, if the House wants us to deal with this as soon as possible, and by motion that is what it said, the earliest opportunity we could do that is at the proroguing of the House. When the House prorogues--I believe the date is now mid-month; February 19 or so--we could begin that process the following week. I do not think we can begin it before that. There may be some urgency to this that I am not aware of, but we do have to give other parties who are named in these proceedings a reasonable amount of notice. To start next week would be inappropriate.

There is a fair amount of research that will have to go into this; precedents and things of that nature. I have asked Smirle Forsyth, John Eichmanis and Merike Madisso to begin that process. They have done that and the contents are in your binder, establishing the questions to be asked, the witnesses to be called, the precedents to be researched. It does appear to be getting more and more complicated as each day goes by, so we would be well served to take our time in getting ready for it and then hold our hearings.

I initially thought perhaps something like an allocation of two weeks'



time would allow us to deal with it. That is not a great deal of time when one considers that a number of witnesses are already on the list and other members of the committee may have other people in mind they would like to call as witnesses. For now, we have a draft of how to get started with this. If there are other witnesses you would like to see called, would you let us know as soon as possible? If there are other documents you would like to see prepared or opinions gathered before we begin the process, it would be helpful if you would let us know.

As we have made it our practice in this committee, we will take a request from any member of the committee to call a witness or to get certain documents or opinions as being a reasonable request, and we will do that until such time as we see that someone has asked for something that is really going to be onerous, cost a lot of money or take a lot of time. In that case, I will seek the guidance of the committee on what to do.

It has been my experience with this committee that members do not ask for unreasonable things. Even though I might not see the total relevance of it all, if we can accommodate you, we will do that.

We have the resources at our disposal to handle this. This committee has had a fair amount of experience in matters of this type. We have Merike, John and Smirle, who have worked with us before on these matters. Is there a feeling that you want more resources? We could, for example, get assistance from elsewhere. We have not had a great deal of success, for example, getting counsel from outside.

What this meeting is about is to lay out how the committee would like to handle this, what information you would like prepared and what resources you would like gathered. I have given you my thumbnail sketch of how to proceed, and we would listen for any suggestions from anyone else on how to go forward from here. That is roughly where we are.

One question I would like answered is, if there are any members of the committee who sense any urgency to go at a faster pace than that, they had better let us know today. Frankly, I do not see how we can do anything much faster than that, but if there is an urgency, I could try to get additional hours of sitting from the House leaders. That is going to become more and more difficult as the House winds down. While we might get permission to sit, whether we would get the bodies in the room is a good question.

On matters such as this, it is neither fair nor reasonable, in my view, to have members come and go from the committee proceedings. If you are to sit in judgement of another member of the Legislature or the actions of other people, you cannot deal with this as you would a piece of legislation. It is imperative that you arrive when the committee is scheduled to start in the morning and that you stay throughout the whole proceedings. There would be substitution only when it cannot be avoided, so the people who make the final judgement will have heard all the evidence and all the argument. I make that pitch to you once again. Comments on it?

Mr. Mancini: I am flexible as to when we want to start, but I say only that whenever a member's privilege is involved, we must work with the greatest amount of speed possible. That is a very important precedent we have followed and I think we should continue to follow it. I understand the arguments you have made. From past experience, it may be the most appropriate thing to wait until the House prorogues, but I am willing to listen to anyone else who thinks we should start immediately and I may even be swayed to that effect.

If we do not start immediately and wait until we prorogue, I would like us to set aside a block of four weeks. Mr. Chairman, you know as well as I do that setting aside two weeks will not be enough, because a portion of that time will be taken up with writing a report. If we set aside a block of four weeks and we get done earlier, we can move on to other work. If not, we have that block of time.

The other reason I suggest a block of four weeks is that I am not sure how other members have allocated their time for the recess. I was hoping to take my daughters to Disneyland, so they could have a holiday with me for a week or 10 days. I would like to know when I can plan that or if I have to change plans I am trying to make. That is very important to me and possibly to other members.

The final point is a matter I find somewhat disconcerting: legal papers being tabled before the committee from both sides of this dispute. I am not quite familiar with the legal process as to how these things are done or what goes on in lawyers' minds, so I ask the Conservative members of the committee whether or not they feel we may need the assistance of a top-rate lawyer who could help us assemble the information in a proper way, lead in the questioning and make sure all the questions get asked, that a report is compiled in such a way that everyone is able to understand it and that some due process takes place. That is a question I have of the Conservative members.

Mr. Martel: I suggest we might want to hire outside counsel. Sopinka or Robinette could bring their briefing notes from the time the government of the day allowed the assistant deputy minister to threaten a lawsuit on the member for Sudbury East. They could bring you briefing notes. I remember that well. Do you know who happened to be the parliamentary assistant to the Minister of Labour of the day? Mr. Gillies.

1540

I cannot stomach people threatening members but, quite frankly, the hype that went on last week stuck in my craw a little bit, because when the assistant deputy minister went after me, the government paid for the lawyers. Is that not wonderful? They paid for two rather average lawyers, John Sopinka and John Robinette; I am sure you would agree they are low-profile lawyers, at best. I have a long memory in these things. I do not get unduly excited, because the government of the day should have said, "Back off." It did not. I had to eat crow--and crow feathers are still stuck right here--and apologize for something I still think to this day I was right about, but I could not prove it.

I am not quite as excited because of a precedent set that the government itself should have headed off. Having been through it three times, I know the feeling well. Nobody helped me in 1971 either. I was served that time, too, and it eventually cost the finance company \$500,000 to fix up a bunch of homes, but I went through a lawsuit and was served with a writ. Again they backed off, so do not expect me to be overly sympathetic. I say that quite candidly.

The government members of that day should have been as excited then as they are now that it is one of their colleagues who is faced with the same situation. They did not raise a feather. I am not in a hurry; I am not going to try to delay it. There has been ample precedent where members have been left out on the hook in this place. The previous government was not prepared to help us one tiddle. It depends on whose ox is being gored. It is a different ox being gored right now. I am prepared to sit after the--

Mr. Mancini: On a point of order, Mr. Chairman.

Mr. Martel: What is your point of order?

Mr. Mancini: Is "tiddle" like "fuddle-duddle"?

Mr. Martel: No. Look it up in the dictionary.

Mr. Chairman: I do not think "tiddle" is a word in any language but it is parliamentary.

Mr. Martel: The chairman lays out that we should have everything before us. We went into our inquiry into the conflicts and it created problems for all of us; surprise letters, material that we did not know was there and that I suspect took a tremendous amount of research to put together. I do not want to go into it with surprises, because that does not enhance anything.

I do not know if we should order a ton of sodium pentathol--better known as truth serum--when we go into this one. We might need a little of that before we are finished. Do you think we could use a little bit, John, to try to get to the bottom of what is going to go on? If you want to order that in advance, we could mix it with the coffee.

I do not think we need any extra help, but we need all the documents that are necessary. We should spend a day together before we start calling any witnesses just to go over the documents carefully so we understand exactly what it is we have, what is there. Maybe we can cut down some time by a line of questioning that might prevent us all from going off on 27 different tangents. That is one of the ways we could reduce the time.

Mr. Chairman: Before we continue with this discussion, I had assumed--and I should have said at the start--the way we will proceed when the hearings begin will be with the same format as we used last summer. We will swear in witnesses in this instance, with a full Hansard in operation. We will take the testimony in that way and we will probably operate using a steering committee technique again to assist in chairing, in judging, so one member from each caucus will attempt to help us order the actual calling of the witnesses.

We will use a process where we will invite them first, seeking a Speaker's warrant only if that is clearly needed.

Mr. Pope: I appreciate the member for Sudbury East (Mr. Martel) honestly giving us his predisposition on this matter. First, I think distinguished counsel are present.

Mr. Martel: That is a matter of opinion. Here it comes now.

Mr. Pope: It is important to put on the record that we would like this dealt with as quickly as possible. I do not think Mr. Gillies is looking for financial assistance to fight lawsuits that occur from time to time. I do not think he is asking for counsel to be designated by the Legislative Assembly to represent him. In fact, if you refer to Hansard in the standing committee on public accounts, the suggestion that this matter be referred to the standing committee on the Legislative Assembly was made by Mr. Epp and seconded by Mr. Wildman. It was not made by Mr. Gillies.

Mr. Martel: I know.



Mr. Pope: The matter is here at the suggestion of the Liberal Party representative and a member of the New Democratic Party.

Mr. Martel: Because we think justice will be served.

Mr. Turner: We all do.

Mr. Martel: The past government did not take the same tack.

Mr. Pope: That may be the position you wish to adopt now.

Mr. Martel: No. Not at all. I would never conduct myself the way they did.

Mr. Pope: I am saying I do not think Mr. Gillies initiated a reference to this committee but he is anxious to have the matter and the ruling about privilege dealt with by this committee as quickly as possible. He can move on to his own defence of whatever legal actions will be taken against him, as I understand his position.

I would like to proceed with this as expeditiously as possible. This committee, in its wisdom, did not think it was necessary to hire counsel for Mr. Fontaine's matter in the summer, which I think was of more substance and complexity than this matter.

Interjection.

Mr. Pope: If you look at the questions put to you, it is very clear what the issue is.

Mr. Mancini: --your disposition then.

Mr. Pope: It is very clear what the issue is. I will leave my comments at that.

Mr. Turner: With all respect to the honourable member for Sudbury East, I would like to make one clarification on a point which he keeps referring to. That is, that we have an alleged violation against the privileges of a member which really has nothing to do with government but has everything to do with the assembly. It is something I feel very strongly about and that differentiation has to be made. We are dealing with a matter of basic importance to our democratic freedoms--a matter in which government has nothing more to say than that they are members in the assembly--as all members in the assembly have. I wanted to make that point.

Mr. Martel: Let me respond to that in a more serious vein. In 1971, I was doing my job as a member of the Legislature. There was a whole subdivision in which the houses were literally falling apart and people could not be assisted. I went in and took on a group that sued me for doing my job. It ultimately led to the company having to back off after I had been served with the papers. They wanted to frighten me off. I understand what Mr. Gillies is going through, quite frankly. It led to a huge finance company having to go in, because it was financing this project, and spend \$500,000 in repairs on 26 houses.

Mr. Turner: All I am saying is--

Mr. Martel: No. I am saying I was served the papers in the same

fashion Mr. Gillies was, not in this Legislature but during the time the House was in session, and the sheriff's office had to do it out of Sudbury because it was there. I am simply saying that nobody came to the defence of the member for Sudbury East who was doing his job. I resented it then--I was trying to be a little funny at first--as I resent what they did to Gillies. I remind people, as I said in the House last Thursday, we have to stop this nonsense where birds think they can use intimidation against members who are trying to do a job. Otherwise, we will all become totally useless in here.

1550

Mr. Morin: Was it served in the House?

Mr. Martel: No, it was served at my home, but the House was in session. The sheriff showed up at my house Friday night. He was very embarrassed, because I know him well.

Mr. Treleaven: I have just one point. I noticed the member for Cochrane South (Mr. Pope) mentioned the word "privilege." I do not think we are dealing here with a matter of privilege.

Mr. Pope: I do.

Mr. Chairman: There may be different opinions on that.

Mr. Treleaven: We are here as a reference from the House.

Mr. Chairman: Yes. We have a motion from the House asking us to look at something. You may, at some point in time, find it is a matter of privilege or you may find it is not. But what is on our agenda at this time is a motion passed by the Legislature putting an agenda item before us. That is what we are dealing with.

Mr. Treleaven: Right.

Mr. Mancini: I just want to make a point. As my colleague Mr. Bossy has said, Mr. Gillies rose on a point of privilege and made his stand on a case of privilege. I am really quite concerned that the Deputy Speaker of the House would say this is not a matter of privilege.

Mr. Chairman: That point of privilege was not referred to the committee; what was referred is a motion which carried. There is that distinction to be made.

Mr. Treleaven: The point of privilege was never carried through.

Mr. Chairman: It may all come around full circle where it is dealt with in the process of these hearings, but technically what is before us is a motion of the House that was passed.

Mr. Martel: Do we have a copy of that?

Mr. Chairman: Yes. It is in your binder.

I have heard no basic disagreement with this suggestion. What I would like now is one from each party to be designated as a steering committee to assist me in ordering witnesses and gathering material. I do not need it today, but within the next day or so, could I have that? First of all, I take

it I have agreement that we will use a steering committee. Either now, or in the next day or so, it would be helpful if you could tell me who it would be. Can we do that now?

Mr. Mancini for the Liberals, Mr. Turner and Mr. Warner.

I have heard no argument that we should hire lawyers. We were asked in the motion to consider the matter of a lawyer for Mr. Gillies, but I have heard no motion to that effect either.

Okay, I consider that to be dealt with. Any further business on this item?

Mr. Mancini: What about my suggestion of setting aside a block of four weeks?

Mr. Chairman: Let me go into that as a little separate item. I have a memo from the whips asking us to provide them with some concept of how long we will be required to sit. We are asking the impossible here. I do not think we will get four weeks, but we can ask for it. We will have two pieces of legislation. We have one and we may have another one.

The committee also had discussed in previous meetings attending a conference in Quebec, which I think is the third week in March. It is three days, March 26 to March 29. I will put that to the whips, but I am telling you before we even start, I do not think we are going to get that kind of sitting time.

The whips are essentially saying they have a problem staffing committees. There is a short time period involved here. What this may come down to, it is fairly clear to me, is that we cannot do all these things. Some of them will not get done, so the whips may be assisting us in deciding the priority.

My personal priority, as I have stated it, would be to hear the motion that has been referred to us on Mr. Gillies as our first priority. We would then move to the legislation as the second priority. I would take the bills in the order in which they come to the committee. Right now, we have one, Bill 34. That would get precedent. The other one that is eventually going to find its way here, I am told, is the conflict of interest bill, but it has not had second reading yet.

Mr. Warner: In terms of the freedom of information bill, roughly how much time would you estimate we require?

Mr. Chairman: I suggest we cannot afford to give it much more than a full week of sittings; five days, possibly three days. I am not sure that bill can be processed in much less than that. I do not think it is possible or practical to get much more than that.

Mr. Warner: How long for the conflict of interest bill?

Mr. Chairman: I would allocate about the same amount of time. I would remind you that when the House is not in session, we will be able to go from 10:00 a.m. until 4 p.m. or 4:30.

Mr. Warner: How much time for this matter of privilege?



Mr. Chairman: I was suggesting two weeks. The member for Essex South (Mr. Mancini) was suggesting we should schedule four weeks. The truth is, we may get four weeks to do this motion and the legislation. If we get the motion dealt with in time, we will get through the bill; if we do not, we will not.

Mr. Martel: I have a concern about that conflict of interest legislation.

Mr. Chairman: We do not have that yet.

Mr. Turner: It is not here yet.

Mr. Martel: I understand that. My understanding is, it is on somebody's priority list somewhere, list 2, I think it is. I raise the point because you mentioned maybe a week--if we throw that open to people coming here on conflict of interest legislation, we might see them lined up from here down to College Street.

Mr. Warner: It will be more than a week.

Mr. Chairman: It could well be that the bill does not get second reading before we prorogue and will not be on our agenda until the next session. Frankly, I am not going to spend a lot of time worrying about it until it is before the committee.

Mr. Warner: We are not planning on sitting during the March break, right?

Mr. Chairman: We cannot. Usually, by motion, no committees can sit that week. Any further business?

Mr. Pope: I would like to reiterate that I think this matter can be dealt with in one day. First of all, your witnesses are going to be very limited in what they can say, because there is a lawsuit going on. If anyone from any of the opposition parties thinks he is going to get a free run at Mr. Fleischmann or Sid Letterman on the matter of the Gillies lawsuit, dream on. If anyone thinks he is going to get a free run at Mr. Gillies and then Ms. Artmont on the substance of the lawsuit, it is not going to happen. There is a very narrow issue here about the service and the affidavits and whether the service was proper, and it takes a day to get the witnesses in, ask them the questions about the facts surrounding last week's events, and then get on with it.

Mr. Chairman: I will speak to that briefly. You may be right; there is a very narrow and specific focus that will be before the committee. I would caution you that if you think we are going to try a libel suit here, we are not. There will be a great deal of it that is extraneous. As a matter of fact, in looking over the list of witnesses, though you may be inclined to call a whole lot of people, when the steering committee gets around to actually ordering who will be a witness before the committee, it will be a shorter list than the one we have. Certainly, the member will be offered the opportunity to appear and those who might have offended the member will be offered the opportunity to appear.

There are a number of people who are named in various documents who would have no interest in appearing in front of us. We may not have much interest in hearing them, either. It may get to a smaller number of people who would appear as witnesses. Once all the documents are in, the steering

committee may be able to go through them rather quickly and get down to a narrow focus.

The member for Cochrane South is right. Lawyers who would appear representing any of the people named would be very anxious that they not prejudice their case in a court with something that might be said before a legislative committee. They will probably tend to be a little on the cautious side. Some may refuse the invitation and we would then have to decide whether it is really worth our while to get a Speaker's warrant to make them appear.

My suggestion, in a nutshell, is to let the steering committee have a little bit of time to shake this down until we see what we are actually dealing with. It may not turn out to be as complicated as first glance would have it; it may turn out to be a fairly straightforward thing. The case of the member for Riverdale was a matter of privilege and we dealt with that basically in one day of hearing. In the end, when all the documents were stripped down, there was a specific focal point to be debated and we managed to hear the witnesses who were pertinent in that instance and dealt with it in a rather straightforward manner. That may be possible in this case. At this point in time, we are guessing as to whether we can do that.

Mr. Martel: I think Mr. Pope is right. I was trying to interpret what the motion for the committee to investigate is really saying. It says, "Your committee recommends the referral of this matter to the standing committee on the Legislative Assembly for investigation." Then it says, "In view of the fact that the standing committee on public accounts feels so strongly that it cannot be interfered with in the conduct of its business." We are not talking about what Mr. Fleischmann might have been accused of doing or suggesting what he is defending. What we are looking at is the incident last Thursday where they walked in here. There is a section of the standing rules and procedures where you cannot be served with--

Mr. Chairman: The Legislative Assembly Act.

Mr. Martel: For us, it is going to be a case of whether the legal firm and its representative came in here contrary to the act, so it is very narrow. We have to find out whether they knew ahead of time what the act said, why the hell they conducted themselves in such a fashion, and then throw the book at them for acting like a bunch of hyenas.

Mr. Bossy: I get a feeling that we are dealing mainly with the procedure of serving a writ on a member. It is the procedure that was used that we feel was out of the ordinary. It is the procedure of serving a writ on a member, thereby creating a situation that could be deemed to be intimidating or harassment.

The question will arise here of who had prior knowledge of the serving of that writ. Those are the people who will have to respond: the people who have been mentioned as having prior knowledge as far as the serving of that writ is concerned. It really does not deal with the content of the writ. I do not disagree that we should not get into that under any circumstances.

The method that was used, the prior knowledge and the kind of protection we as members have under the act from being served within this building and this Legislature are the issues. We may be able to look at the broader end of it: whether we can be served somewhere else and have protection. These are questions that need to be answered. Primarily, the witnesses will be the people who were directly involved or contacted on the basis of this writ being served.

Mr. Chairman: I am going to try to help you out here. I guess one should not do that when one is in the chair, but it is just for your own deliberations.

Because it was put to us in the form of a motion, I consider that we will take the narrower rather than the broader view of it all the time. In other words, if the House wanted the broad question of privilege investigated, it would have made the referral on Mr. Gillies's point of privilege, in which case it would be a very broad investigation; but the House did not. It put to us a motion from a committee asking us to investigate the particular incident that happened at that committee. My rulings would tend to centre very specifically on that.

In other words, I would not want to hear a lot of chatter about the controversial development or anybody's activities outside that particular morning, or who did what or who wrote what or who is responsible for what, other than that specific incident that the House, by motion, put on our agenda. My tendency would be to make the rulings around that basis. That would give it a fairly sharp focus and limit, rather than expand, the areas that would be open for discussion.

Mr. Treleaven: I tend to agree more with Mr. Bossy than with Mr. Martel. As I interpret Mr. Martel's comments, he suggested that the committee is going to deal with the very narrow question within the section of the Legislative Assembly Act as to whether or not the service is in order or is legal or illegal according to that act.

I see an entirely different question because, quite frankly, it is up to lawyers and courts to decide whether that section and that act is constitutional, etc. We are not even qualified to deal with that. What I see as the wider question is intimidation and an attempt at intimidation, a subject entirely separate from the narrow confines of the one section of the Legislative Assembly Act. It is an exercise in futility if we are going to deal only with the Legislative Assembly Act and try to interpret that and all be lawyers.

Mr. Chairman: I do not think there is any sense in arguing this case now. We have a steering committee. I have asked them to be prepared to have a session or two before next week's meeting, and by then perhaps we will have some recommendations around witnesses and material to be gathered. Okay? Any further business? We are adjourned.

The committee adjourned at 4:02 p.m.





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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

MEMBERS' PRIVILEGES

MEMBERS' SERVICES

WEDNESDAY, FEBRUARY 4, 1987







STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Dean, G. H. (Wentworth PC)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Warner, D. W. (Scarborough-Ellesmere NDP)

Clerk: Forsyth, S.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service



## STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, February 4, 1987

The committee met at 3:25 p.m. in room 228.

## MEMBERS' PRIVILEGES

Mr. Chairman: We have a quorum and we can begin.

First is a little report from the subcommittee on general procedure. Have we all got copies of this? Okay, you have copies of this. Basically, it is a steering committee reporting to you on how to handle the Gillies affair. We met and the recommendation to the committee is as follows: That the following persons be invited to appear as witnesses: Mr. Gillies, Ms. Artmont, Mr. Patton, Mr. Clamp and Mr. Lederman. We would do this again by invitation in the first instance. We would have the ability to give a Speaker's warrant if it was deemed to be necessary.

The steering committee is recommending that on the first day we do some reviewing of materials in camera. There was some thought given to perhaps inviting the Speaker and the Clerk of the House to attend and advise us on the matters having to do with privilege and things of that nature. We would go over the staff materials that would be prepared. That afternoon we would begin calling the witnesses. Again, as has been our practice, we would slot them in at their convenience as much as we can. We would go through the first week on this basis.

We had envisaged that in the second week we would essentially consider the draft report. Now, I want to report to you subsequently a little information I have which is perhaps a little bit premature. It is the first draft of the whips' attempt to put together a schedule for committee hearings. It does not quite fly in the face of this, but it makes it a little difficult. The whips are currently considering giving us that first week to sit. Then we would not get to sit again until the last week in March; that would be the 23rd.

We could fit this in fairly well, but the only difference would be that we would go through the formal process in the first week; we would gather up the information and hear the witnesses in the first week. We might give some direction to staff at the end of that time and then allow them some time, probably the two- or three-week interim, to finalize the report. We would perhaps take one of the other days subsequently to finish the report.

In other words, in the steering committee's recommendation we were suggesting two weeks and we would finish the business completely. If the whips' schedule holds, we may not be able to finish it until some time later, but in essence the public part of the process--the hearings part, the hearing of witnesses and the gathering of evidence--would still be done in the first week after the House prorogues.

With this flexibility built into it we are essentially recommending that we try to deal with the matter in three days, go through the staff and the research, ask the Speaker and the Clerk to attend, spend two and one half days hearing witnesses--there are five of them we are recommending--and then we would write the report.





Mr. Treleaven: Is it contemplated that those are the only two weeks this committee is going to sit in the winter break?

Mr. Chairman: No. As it now stands, it is proposed that we would sit the week of February 16. We would then adjourn until the week of March 23. We would then get the week of March 30 and the week of April 6. These are not finalized but this would give us four weeks of sitting: a week on the Gillies referral; a week to attend the CPA meeting--it would not be a full week as there are three days in that week, so we could work in an extra day or two--

Mr. Mancini: When is the CPA again?

Mr. Chairman: It is March 26-28. Then we would have two weeks to finish legislation. We may have two bills referred to us by then. One we already have: Bill 34. The other one would be the conflict of interest legislation. I want to alert you that we are still having scheduling problems in getting the Attorney General to attend. However, I am told others are working at trying to make it happen.

Mr. Mancini: Where is the CPA?

Mr. Chairman: Quebec City.

The recommendation of the steering committee is that those would be the five witnesses. I will put it this way. The first week would be as outlined: one half day going over the background and getting input from the Speaker and the Clerk; two and one half days of hearings; and we would then consider the report. Consideration of drafting the report may be done in the second week if it is possible. If it is not possible we will have to conclude our deliberations on the next occasion when the committee sits.

That is the recommendation. Any comments on it? We are gathering up the information and precedents. We will have most of that for you.

1530

Mr. Mancini: I want to mention that even though we have five people listed here, and at this time it appears that it is a pretty comprehensive list, it does not necessarily mean that as we are going through these hearings other names will not pop up--

Mr. Chairman: I cannot preclude that.

Mr. Mancini: --and therefore it may be the judgement of the committee that these people be called. While we are scheduling the week, I think previous experiences tell us that it may not be enough. I think everybody should be aware of that.

Mr. Chairman: Yes, I agree. That is the recommendation from the steering committee. Any further comments on it?

Those in favour of the recommendation?

Any opposed?

That will carry. That is the way we will set out to do that.





I do not have much more to report to you on those matters. The subcommittee on security matters will adjourn to Ottawa on the evening of February 12 and has meetings scheduled for Friday, February 13. We will attempt to get a fairly thorough review of the procedures used at the House of Commons in terms of staff, staff training, surveillance equipment and other measures which they have implemented there, so we will have a reasonable working knowledge of how they do the security process in the federal House.

Are there any other matters on the Gillies referral that anyone wants to raise? Otherwise that is the way we will proceed. You can anticipate that you will get a fairly hefty set of papers outlining matters having to do with privilege, molestation and all that stuff. That is under way. We will try to provide you with more reference material in terms of a little bit of an analysis of the two affidavits that have been forwarded to the committee and any other pertinent information that we can gather for you.

Mr. Mancini: Are you sure we do not need a lawyer?

Mr. Chairman: Yes.

Mr. Warner: We have one.

Mr. Mancini: We are sure that we do not need counsel to come in and compile things, lead the questioning and things of that type? We are sure of that?

Mr. Chairman: Yes. The steering committee went over that. We will use the same people we used for the Fontaine hearing. We will use virtually the same process.

I might add just a word of warning to you. The steering committee went over the motion that was actually referred to the committee and wants to reiterate that there is a clear, sharp focus on the referral. It is not a broad, general inquiry. The committee discussed briefly whether this could in fact be done in a single day, as we have done with other references. The Reville referral, for example, was dealt with in one day. It was felt that members wanted some time to go over this. We had a number of witnesses who in our view had a right to appear because they had been named in various documents and we wanted to extend to them a reasonably full opportunity to express their opinions to the committee. It is conceivable that we could conclude the hearing process in basically three days.

I would reiterate that I cannot guarantee that there will not be other people that you may want to call as witnesses, but at this time I would point out to you that we will put it back to a steering committee if it is apparent to me that we cannot get ready consensus. The only other alternative that I have is to go by means of motion, as we did, for example, in the last set of hearings on a related matter.

Mr. Mancini: I really think we need a lawyer.

Mr. Chairman: Various members of the committee have done that. This committee has gone over the use of outside counsel on every single occasion, and we have consistently come to the conclusion as a majority that it all seems to depend on whose ox is being gored. We did not use a lawyer for the Reville referral. We did not use outside counsel for the Fontaine referral. The consensus of the steering committee was that we would not use an outside counsel on this one.



Mr. Warner: Right. I agree.

Mr. Chairman: We may be wrong, but we are consistent.

# RENOVATION OF LEGISLATIVE BUILDING

Mr. Chairman: Can we move on to the second matter that is before you today? That is the referral. This matter was presented to you last week and we asked that referrals of this nature, which are rather substantial, be tabled with the committee for a week and then brought forward for discussion. We can now move to the resumption of the debate on the motion to adopt the report of the subcommittee on members' services basically having to do with a renovation proposal, an advisory committee to be established and various reports.

Just before we begin this, I would like to tell members--I think you all know--the Ministry of Government Services has been engaged in doing an inventory of the building, its needs, its structural faults and things of that nature. Some preliminary work has been done utilizing consultants to outline what needs to be done from a structural, mechanical and engineering point of view. The recommendation from the subcommittee goes a bit further than that. You should have those two little pieces of information in the back of your minds.

How do you want to proceed on this? Are there general comments from all sides? Is that what you want to do?

Mr. Mancini: I am happy with the work that has been prepared. The only thing I would like to see done, because this process is going to take a while, is to have someone, possibly us, suggest that repair work of any major significance or changes to this building be halted.

Everywhere you go in this building, in almost any given week, there is somebody knocking a hole through a wall. I do not think that is going to do the reconstruction process any good. This was a problem we had under the last government, and I brought it up with the Speaker in the House at that time. I think the member for Peterborough (Mr. Turner) might have been the Speaker. I cannot remember the answer I got from him. It must not have been that significant, because I cannot remember it.

Mr. Treleaven: Like most of his answers.

Mr. Mancini: If we are going to be serious about this, and if we are going to get people to come in and go through this place room by room, I would like the damage to be halted. Not only would that halt the damage that is occurring, but it would also, I believe, focus the attention on this committee and the fact this committee is really going to be overseeing this huge work that has to be done.

Maybe we need the work. I am sure we do. We have to work with the Ministry of Government Services and, of course, Mr. Speaker, but I think that should be something we would want to consider.

Mr. Chairman: The one other thing I should report to you--

Mr. Turner: Excuse me. I think there is one fundamental thing that has to be dealt with before we go too far. Unless things have changed that I am not aware of, and in response to Mr. Mancini's observations, the problem is the divided jurisdiction of responsibility in this building. In fact, the Speaker has very little to say or do about with what happens in this building. If we are going to be serious about this, the first thing we have to do is to





have somebody, preferably the Speaker, responsible for the whole building and what goes on in the whole building.

Mr. Chairman: Yes. In that vein, I was going to report to you that gossip I am aware of tells me the new Legislative Assembly Act, among other things, will put this building and other portions of buildings that have members' offices under the responsibility of the Speaker. That act will be presented in the spring session, probably in April. One should not dismay; that work is going on.

There are some continuing arguments about what will go into that, but the main gist of the legislation is to consolidate it all under the stewardship of the Speaker. It would be almost impossible, for example, to go into any kind of major renovation program or restoration program unless you clarified the dual-jurisdiction difficulty that has haunted everybody. I am told that legislation is still in the works and will see the light of day some time during the spring session.

Mr. Turner: I am glad to hear that.

Mr. Warner: Two things: I would like to make a few remarks about the report and what the committee saw and what it did. Also, at the appropriate time, I wish to amend--

Mr. Turner: Not everything.

Mr. Warner: Not everything, no; just the dull part. I would like to amend one of the recommendations on which we will be voting.

1540

Mr. Chairman: Would you like to make your general remarks first? Then perhaps you can make any amendment you might have.

Mr. Warner: All right. First, for the information of the other members of the committee, our subcommittee travelled first to Boston and then to Harrisburg. In both locations we were certainly well received by the host state. The members there, both the elected members and the staff, went out of their way to show us around the building to explain. We met with architects, with engineers and so on, and they explained the process they had been through, gave us some tips on pitfalls to avoid and gave us some good suggestions on what to look for and what to look out for.

In Pennsylvania in particular, it seems to me that they took the right kind of approach, which is outlined in these two recommendations. First, they were very clear that the restoration of their building should be at the direction of the elected members. They also made an effort to involve the historical society and other people who were interested in restoration, but the direction of the restoration was by the members.

They did another thing which I think was significant and which I would recommend here; that is, they managed to secure from their assembly an annual amount--I think it was \$2.6 million--which was put into a separate fund solely for ongoing restoration. If the amount was not completely used at the end of the fiscal year, whatever was left was rolled over into the next year. So they can accumulate amounts in that account. To date in Pennsylvania, I think they have about \$28 million in that reserve fund which they can use for various projects as they crop up. I think that is significant. It is a different type





of budgeting than what we are used to, but it is treated as a different type of budgeting in their system too. I certainly would recommend that be done here.

We noticed that in Pennsylvania, in Harrisburg, some terrific parking conditions for the members. They had constructed an underground parking lot and the security on it was activated by a magnetic card which the members have. They provided enough spaces for both members and staff, a superb situation. They had taken the time to do a complete study and to make what I think is the first big decision: determining what should be renovated and what should be restored.

There are parts of this building which maybe do not need to be restored, but they certainly need renovation. Ceilings--there are ceilings in some of the areas which need to be renovated; they do not necessarily need to be restored.

When they looked at the restoration plan, they were careful to make sure to document the history of the building and have it properly presented. As far as the public relations was concerned, they had created a videotape which was publicly available. The general public enters into their legislature. There is a videotape there explaining what was wrong with the building and what was done to restore it. That is a useful educational tool and it certainly helped in terms of the public relations between the building and the public at large.

Interjection: Did you bring of copy of that back?

Mr. Warner: We got a copy back which has been deposited with our trusty clerk.

Clerk of the Committee: We should have them shown on the closed-circuit television if there is time.

Mr. Warner: Is that right?

Mr. Turner: It should be shown to the committee.

Mr. Warner: Yes. Maybe at some point the whole committee can take a look at it. The purpose of bringing it back was not so much to educate you about the state of Pennsylvania, as interesting as that may be, but rather to give you an idea of the type of thing which we could create here in Ontario as a way to help inform the public as to what needs to be done. We do not need to kid ourselves; we are talking about big dollars to restore this building, but it should be restored; at least, I believe it should be restored and I believe the public of Ontario would be very accepting of that.

I think the public of Ontario is indeed proud of its Legislature and would be very receptive to having it restored properly. If we passed the recommendations, one of which I am going to suggest be altered, we as a committee would unanimously be making a strong statement that this project receive priority and that it get under way at the direction of the members so the members are actively involved but that there not be any delay in getting the process started.

I do not know exactly how long it is going to take, but I would be willing to bet that if you do the job properly, you are looking at five or six years at least.



Mr. Turner: I think it is an ongoing thing.

Mr. Warner: It is an ongoing thing, but to do the major portion of the renovation of this building, I suggest it would be five or six years from the time you start until it is complete. If you just sit around waiting, obviously it does not get any better. Parts of the building are literally falling apart. At least 20 per cent of this building is not used now because it cannot be used. The fire marshal is not going to let you use it; it is closed off.

Obviously, the pressures increase. After the next election, there will be an additional five members. An additional five members plus staff require more space and all the services that go with that. There is a pressuring. It is ludicrous that we have one fifth of this building that cannot be used right now. That needs to be done.

There are a number of other things that this committee or any group of members and whatever composition of this committee is in the next parliament should consider. There are a lot of different things about this building that need to be rethought, one of which is the dining room.

We need a lively discussion about whether there should be a parliamentary dining room established above ground instead of hidden in the bowels of the earth. On the fourth or fifth floor overlooking University Avenue might be an appropriate location for a nice parliamentary dining room. What is now the dining room downstairs could be a very enhanced cafeteria which could be used by the general public, staff, members and anyone else in the building. It could be turned into a really pleasant cafeteria and the dining room could be moved to an upper level.

There are a lot of very good changes that could be made to this building but all in the context of restoring this building to what it was supposed to be.

There is a lively discussion going on about a clocktower. Some would be in favour, some against, but that is a matter that should be aired because opinions should be heard. Mr. Mancini says no to the clocktower, but there may be some who think it is a good idea and I think their opinions should be aired.

That is all I want to say about it other than to conclude that I think that our visit to both of those locations was extremely useful. Oh, one last item--it escaped my mind. The gentleman who was the head or house leader, whatever the term is, for the Republicans in Pennsylvania.

Mr. Morin: It might be Ryan.

Mr. Warner: Ryan? That gentleman offered, at his expense, to come here with staff, if we so wished, to work with our committee and assist in whatever way they could in helping us restore the building and pass along their experience since they have recently completed their building.

1550

Mr. Morin: Meet with the leaders.

Mr. Warner: Meet with the leaders; he said he would do anything. He was extremely gracious in offering his assistance, which was nice. In the United States, they have established a network of state legislatures which are





renovating, and they regularly share information on how to renovate windows and restore lights properly.

I do not know whether you call it damage or not, but some of us noticed the lights in the chamber were altered when the television was put in. What once was shiny brass is no longer shiny. There are certain things that have to be safeguarded against when you do work in and around the building. The folks in Pennsylvania had lots of advice on that matter and said they would be only too willing to come here any time at their own expense to give assistance to us. I thought that was a nice gesture.

With those few remarks, if it is appropriate, I would like to move an amendment to recommendation 1.

Mr. Chairman: Are there any other general remarks anyone wants to make?

Mr. Morin: I confirm that it was an excellent tour. I did not hear John or David speak. It is one of the most beautiful buildings I have ever seen.

Mr. Warner: Gorgeous.

Mr. Morin: Done with taste and the best material one can imagine. Money did not seem to be a problem; public reaction did not seem to be a problem.

Mr. Warner: Extremely positive.

Mr. Morin: I think we should underline the importance of pride in our buildings in Ontario. You have to promote it and educate the public in what it means. So many people have passed through here; there is a lot of history here. When people come and visit this place, they say: "This is my building. This is our building." It is only by creating that spirit of pride that we will be able to raise that money without any fuss whatsoever.

Mr. Newman: I think you are talking in the millions and millions of dollars.

Mr. Morin: Sure.

Mr. Newman: An amount of money I cannot foresee our wanting to spend. We as members would want to spend it, but I do not think the public would accept it at all.

Mr. Turner: If I may address that point, the renovations to date in Pennsylvania are something in the neighbourhood of \$26 million. The public has not complained in any way, shape or form. The media have not complained. In fact, quite the opposite; as Gilles has said, everybody is taking a personal pride in the preservation of the building.

As representatives of all three parties in the Legislature, we have to have the political will to make that decision. There is no point in embarking on a program of this magnitude with one of the groups standing off to one side and criticizing. It has to be agreed by everybody or it will not go ahead at all. It will not survive.

On that point, I am not sure whether all members are aware that a number of the legislatures in this country have been faced with similar problems,





some of greater magnitude than this. British Columbia is one that comes to mind, and it has done a magnificent job. Alberta is another one. Saskatchewan had a major construction problem. Quebec has been done.

Someplace along the line we, as stewards of this building and everything that goes with it, have to accept the responsibility for preserving it for ongoing generations. If we are not going to do it, then let somebody else make the decision. I, for one, feel it is very important. From the work I have seen in both this country and the United States on the preservation of buildings, I can only say the results have been nothing short of spectacular. That is the only way to describe them.

Mr. Dean: I regret I was not able to go with the group on the trip to view the state legislatures, but I am fully in support of the proposal. Having visited some of the others in Canada, most recently the one in BC, where a splendid job has been done--it is a beautiful, airy building, not exactly like this one--I came back thinking that this thing looked pretty dowdy and dingy here and there is no reason for it except just people not paying attention to it over the years.

I think we have to look at it in some ways as catching up on the past where it perhaps should have been done during the period in other words. There is no reason for delaying it any further because it will only be more expensive because of further deterioration. On that basis and so that we can keep it, I think we have to say that it is really an asset, a real heritage of the province and we are not only obligated but should feel proud that we have it.

Mr. Chairman: Every legislature in the world, I suppose, goes through this problem of how to keep the building up. This building, through reports that I have seen so far, has some very serious structural and engineering flaws in it. You can spend no money on it but it will fall down around you; that is one option. This winter, the office next to mine had what was tantamount to a flood, which came in on the fifth floor and wound up coming out through a ceiling on the third floor, and the office was literally flooded out through your office.

Mr. Morin: My office.

Mr. Chairman: Thank you. Why did you not hold on to it while you had it?

There are, of course, ongoing renovations around the building now which are certainly not cheap. The question is, should there be a plan of restoration put together, and should there be a cohesive, organized attempt made to do this in an orderly manner? I think you cannot escape the fact that this is a very old building. For example, when they went to do the repair work on the outside of the building, one of the things they found was that there are no stonemasons of that kind still left in operation in Ontario; they had to find one who was brought back, I am told, from Italy, and he is gradually working his way around the building and, as he does, training someone to carry on that kind of work. There will be a lot of restoration work where one of the first problems will be that nobody does that kind of work any more.

As you look around this room, I would put to you that if somebody came into my house and their version of rewiring my living room was to strap eight sets of cables to the walls and staple them to the wood, I do not think I would find that an acceptable means of repair, not to mention these desks



Mr. Chairman: The second amendment is basically then one from each party. Any comments on that?

Mr. Mancini: Basically, the subcommittee's role on that particular item will be finished once this new committee is in place.

Mr. Chairman: Yes. Any comments on it? Those in favour of the amendment? Any opposed? That carries.

Those in favour of the recommendation, as amended? Any opposed? That carries.

1600

The second recommendation is:

"That an historic structure report similar to one conducted in Harrisburg, Pennsylvania, be commissioned immediately as a preliminary step to the preparation of a comprehensive restoration plan."

Any amendments on that?

Mr. Dean: Before we get to that, I take it we are approving the little paragraph after the first recommendation.

Mr. Chairman: Yes. We will approve the whole report.

Mr. Mancini: I thought we were going to leave that for a while, the little paragraph after recommendation 1.

Mr. Chairman: Yes. I am just dealing with your recommendations now. Any comments on the second recommendation?

Mr. Morin: "An historic structure report." You mean a subcommittee looks at the structure of the building and presents a feasibility report. Is that correct?

Mr. Chairman: Yes; let me help you out a little bit. We will include in here reports from Harrisburg and Boston, and we are recommending that a similar inventory be done.

Mr. Turner: But not necessarily an in-house report. I think that is what Mr. Morin is asking.

Mr. Morin: No. It is a committee that would look at the building.

Mr. Turner: Is it not my understanding that a professional group would be hired to carry out the inspection?

Mr. Morin: That is right; that is what I understand, yes.

Mr. Chairman: Shall that second recommendation carry? Carried.

Are there any other comments on the report? Then I will take a motion to adopt the report and forward it to the assembly.

Mr. Mancini: The paragraph under our first recommendation states, "To assist this special committee, an advisory panel...." Do you want some comments now on how this advisory panel should be struck, the size, etc., and





what sectors of the general public the advisory panel should come from, or do you want to leave that up to the new special committee?

Mr. Chairman: I think one of the first jobs of the special committee would be to be a little more specific about the nature of the advisory panel. For example, the heritage foundation could declare it a historical site and therefore would have some legitimate right under certain Ontario statutes perhaps to question whether any program of renovation could be done without its sanction. You would have to deal with some of the mechanics of that.

What is in this report is that there be an advisory panel struck. The nature and the specifics of it would be set up by the special committee.

Mr. Mancini: The other matter is whether this new committee is going to report on a regular basis to the standing committee on the Legislature Assembly. Are we going to approve? Is this a subcommittee or is it not a subcommittee?

Mr. Chairman: Let me try to clarify this. Again, it goes back to the problem that Mr. Turner raised earlier. Until the whole building comes under the purview of the Speaker, this is going to be rather awkward to do. For now I suggest, unless the House says otherwise, that it not be considered a subcommittee of this committee on the Legislative Assembly; it would be a special separate committee.

The difficulty it would have in doing very much at this stage would be, for example, that in certain parts of the building you would have to get the blessing of the Ministry of Government Services to do anything because it does not belong to the Speaker or to the assembly. Until the Legislative Assembly Act is changed in the spring session, it is going to be difficult to proceed with this.

For now, for example, even striking the committee and doing anything is awkward. I suppose the Speaker will correct me on this if I am wrong, but I suggest to you that the striking of the committee is the purview of the assembly itself. It may do that, and we can recommend to the House that it strikes that, but the committee could not have a budget and could not do anything until the Board of Internal Economy provided it with some funds to do that.

I suggest we forward the report to the assembly for its consideration and that we forward the report to the Board of Internal Economy for its consideration. As we currently stand, we have the divided jurisdictions. The assembly does not have a budget per se, other than what you normally see during the course of the estimates. At this point in time, we would have to send this report in two directions, to the Board of Internal Economy and to the assembly. At some point it would be nice if we could just send this to one spot and the process would continue from there, but until that happens, with the split jurisdiction, it will have to go to both areas.

The next question is, shall the report be adopted and forwarded to the assembly and to the Board of Internal Economy?

All those in favour of the motion?

All those opposed?

Carried.

The committee adjourned at 4:05 p.m.





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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ORGANIZATION

MEMBERS' SERVICES

NATIONAL CONFERENCE OF STATE LEGISLATURES

WEDNESDAY, FEBRUARY 11, 1987



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Dean, G. H. (Wentworth PC)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Warner, D. W. (Scarborough-Ellesmere NDP)

Also taking part:

Sterling, N. W. (Carleton-Grenville PC)

Clerk: Forsyth, S.

Clerk pro tem: Manikel, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, February 11, 1987

The committee met at 3:16 p.m. in room 228.

ORGANIZATION

Mr. Chairman: I see a quorum. There are several procedural matters that we want to firm up; so perhaps we could deal with those first. There is only one substantive item.

For your information and for the record, I am now told that we have permission to sit the week of February 16, the week of March 23, the week of March 30 and the week of April 6; so there are four weeks of sitting time that we have allocated in the interim.

As you recall, the way we ordered business was that we said we would pick up the service of a writ on Mr. Gillies next week; we will do that on the week of February 16. I am told these witnesses have all agreed to appear at those times, and it would appear that we can, at least, hear the witnesses during that week. Unless there is some objection from someone, we will proceed on that basis. Those are the witnesses you wanted, and it appears they are all available to be present at those times.

I would point out to you that on some occasions, on two occasions at least, it calls for the hearing of two witnesses in an afternoon or a morning and I would ask you to remember that with your questions. If we are trying to hear two witnesses in the same morning or afternoon session, we will have to be a bit abbreviated in that. It is felt that we could do it in that time.

Mr. Bossy: I believe it was also stated though that there is the possibility after we hear from these witnesses or because of what might surface during the interviews or examination of these witnesses of calling other witnesses.

Mr. Chairman: Yes. We cannot preclude that. Okay. Is it generally agreed then that we will proceed on that basis for the first week?

Mr. Newman: What day is that?

Mr. Chairman: Tuesday, Wednesday and Thursday, February 17, 18, 19.

Mr. Newman: I know, but you say "first week"--

Mr. Chairman: Tuesday, February 17; Wednesday, February 18; and Thursday, February 19.

Mr. Newman: I simply wanted to know; that is all.

Mr. Chairman: That is the first week taken care of.

The next one would be on hearing Bill 34. We think we have assurances now that the Attorney General (Mr. Scott) will be available on March 23 and 24 and on April 1, 2 and 3. That is on your agenda. I think we have him available for us on those dates. We have some time left, then, on the week of April 6.



Mr. Warner: I would not mind going back and just doing them in order.

Mr. Chairman: All right. One at a time. Any discussion on item 1?

Mr. Sterling: The only thing is, in terms of the mileage allowance--

Mr. Chairman: There would be no change.

Mr. Sterling: No change?

Mr. Chairman: That is right.

Mr. Turner: That is the way they do it with the deputies.

Mr. Warner: For the interest of the members, attached to the report is a copy of the executive automobile policy and procedures, which is for senior civil servants. That policy specifies the arrangements which include the kilometre distance chart and the leasing arrangements that are appropriate for senior officials, and the subcommittee recommends, unanimously, that the ~~se~~ apply to the members of the assembly.

Mr. Chairman: Any further discussion on item 1?

Those in favour? Those opposed?

Agreed to.

Mr. Chairman: On item 2: Is there any discussion on that?

Mr. Warner: Norm had a question earlier and just by way of explanation--

Mr. Sterling: The question I had, would this cover the clerk of the committee or the researcher, etc. who are involved in this, or, for instance, if you had a guest as well?

Mr. Chairman: Yes. The requirement would be that you would provide a list of the people who attended.

Mr. Turner: I think it is interesting to note that senior staff members of the assembly who attend management meetings are allowed to do this now.

Mr. Chairman: I want to point out here, and this was brought to my attention earlier this week, this has been our practice, but not a regular practice. Someone pointed out the Manual of Administration does not provide for that so the recommendation here is simply to bring the manual in line with the practices. Any further discussion on it?

Those in favour? Opposed?

Agreed to.

Mr. Chairman: Item 3: Any questions?

Mr. Warner: There are really only two wrinkles here in item 3. One is the suggestion that you roll in the amount. Right now there are separate amounts. You receive \$27 for the meal allowance and \$65 for the per diem. We are suggesting they be rolled into one and rather than the total of \$95 it would be increased to \$150.

Mr. Chairman: Any discussion?

Mr. Bossy: Just for a point of information--I was not here--has this ever been discussed? Was there any committee in the previous--

Mr. Chairman: Yes, the previous standing committee on members' services discussed this item.

Mr. Bossy: It had been discussed?

Mr. Chairman: Yes. It made a similar recommendation.

Mr. Bossy: Has it ever been presented for approval?

Mr. Chairman: I can go over the history of this; the repeated problem was the one that we put in our report, that the members' services committee was quite free to discuss and recommend anything. There did not appear to be any mechanism for following up on it. So the members' services committee had somewhat of a difficult time in that it made recommendations but they did not go anywhere and no action was taken on them. What I am going to propose to you at the end of this exercise is that we clarify the mechanism for decision-making. Any further discussion on item 3?

Those in favour? Any opposed?

I take it Mr. Martel and Mr. Warner are in favour?

Mr. Warner: Yes, definitely.

Mr. Chairman: That carries.

Agreed to.

Mr. Chairman: Item 4: Any questions on item 4? It would simply bring into line the same practice that is now used, for example, for the payment of rent. If there is a long-term lease, such as you would enter into for furniture, that too could be paid. Any questions?

Those in favour?

Mr. Morin: Correct me if I am wrong. The idea of this is to make sure that the member is not money out of pocket. In other words, when you pay ahead of time, you are paying interest on that money. That is the purpose of the whole thing. If possible, I would like to add that in my case, I bought the furniture. I am being reimbursed. I think it is amortized over a period of five years, so much a month. Now, I have disbursed that money for five years to come. If I was not to be re-elected, I lose all that money, if I can put it that way. Why is it the person who rents furniture would be compensated, because he receives some compensation, and the person who purchases furniture is not compensated? Do you follow me?

1530

Mr. Chairman: Yes. The two options available to members are to purchase it and depreciate furniture or to lease it. There is an obvious encouragement on the part of the administration to enter into lease arrangements for reasons which escape me totally, to tell the truth, but that is their preference.



In effect, members who do make the purchase are penalized. There is an option available to you to do otherwise and I suppose that is the argument that says, "If you do not want to buy it, you can always lease it." Quite frankly, I do not understand this. I understand there have been discussions around arrangements, for example, in constituency office materials. The desk I lease in my constituency office has been paid for about five times, because of the preference for the administration here to enter into lease arrangements. It seems to me a stupid, inane, jerk kind of thing to do, but that is the way they want to do it so there is nothing I can do about it. At some future time, perhaps the members' services subcommittee might look into that, but that is the accepted option.

Mr. Martel: I think it is time we simply said in a motion that lease-purchase agreements should be allowed.

Mr. Chairman: They are.

Mr. Bossy: It is not within the global budget.

Mr. Martel: They are iffy.

Mr. Chairman: Do you want to take that as a separate item and refer that portion of it back to the members' services committee?

Mr. Martel: Let me tell you what worries me. People have been lease-purchasing their furniture on the side for as many years as I have been here. Other people have been leasing or they have been getting apartments that are fully furnished. If you get an apartment that is fully furnished, you pay \$900 to \$1,000 a month for it. If you purchase outright, as Gilles has done, you pay for it over a five-year period by writing it off, or you get your money back.

It seems to me that you save the province a lot of money up front by a lease-purchase agreement. Never mind the nonsense that has been going on around here for years, right up front, that you can enter into a lease-purchase agreement for your office equipment because it is cheaper at the end of five years. I have talked to Larry Waters. It is cheaper to lease-purchase it and just throw the bloody thing away than it is to try to gather and bring it all back, and then try to distribute it to someone else. At the end of five years most of it is not worth a tinker's damn anyway. So why not go the route of lease-purchase on all items?

Mr. Chairman: Okay, but I prefer that aspect of it be referred to the subcommittee on members' services and let them have a look at it.

Interjection.

Mr. Chairman: That is aside from this proposal.

In other words, deal with this proposal now and take that as a separate matter and refer it back.

Mr. Mancini: We will put that on our agenda.

Mr. Sterling: Then we have an agenda?

Mr. Bossy: I wanted to bring in that in part 1 there is some similarity concerning the leasing of a vehicle. We discussed this in committee and the other members know that I was concerned. I would have liked to add a word in here. In other words, it says in here entitled for the purpose of leasing and leasing or depreciation allowance.



Mr. Chairman: To give you my personal point of view, depreciation is a reasonable way to proceed, whether it is furniture or cars, whatever. I would have preferred that because it is going to cause me some problems. If that does get implemented, I just happen to have bought a new car and I will have to sell it and go and lease another vehicle, but I think that we can handle it this other way. I do not have any problem with that.

Mr. Bossy: I thought maybe if we put the two forms in they might accept the one, instead of just putting the one and get that one--

Mr. Chairman: The question of whether you enter into lease arrangement or you purchase and depreciate is a separate item that covers a number of matters that are of concern to members. I prefer to see that dealt with separately. I would let this recommendation stand and go forward and consider the other matter at another time.

I have talked to administration on it. There is some realization on their part that there is a considerable additional expenditure by means of the assembly requiring members to enter into lease arrangements, which in some instances do not make sense. I mean the leasing companies are very happy with the fact that we are all into leasing furniture for constituency offices. They are well pleased about that and well-served by it. I do not think the people of Ontario are.

Are there any more questions on item 4?

Mr. Sterling: I just say that the whole argument we are having on furniture, cars, etc. is the same argument you can put in terms of living accommodation, about which we all talked, and about which one of my colleagues was severely criticized by members of this Legislature over a long period. Notwithstanding all the criticism, because he had his family here and required a certain form of accommodation, that member saved this Legislature over \$100,000 if you write the figures down. I am just talking about that whole thing. While it may appear to members of subcommittee that logic has it, as Mr. Martel puts it, there is the backside perception problem.

Mr. Chairman: I would prefer for obvious reasons--you are hearing the murmurs now--that be heard and dealt with as a separate item.

Mr. Sterling: That is what I am saying.

Mr. Chairman: We should do a little cost analysis on that, and I think the results will be relatively straightforward.

Are there any further questions on item 4?

Those in favour? Any opposed?

Motion agreed to.

#### NATIONAL CONFERENCE OF STATE LEGISLATURES

Mr. Chairman: We have only one other matter of business before the committee. I have a request from Mr. Sterling to attend the conference of the state legislatures at the Assembly of the Legislature in Montgomery, Alabama, March 12 to 14.

There are two questions I would like to put to the committee. First, are there others who would like to attend, in which case we can deal with it in that way, or second, if Mr. Sterling is the only member, do I have your concurrence to approve his expenses? here

Mr. Mancini: I was going to be all gung-ho until that last five- or six-minute spiel he gave us.

Mr. Chairman: I was afraid of that.

Mr. Sterling: Why do you think I did it?

Mr. Chairman: I need some direction from the committee. Let me put this to you. The normal procedure around here is if members of a committee attend any function, we look for a delegation consisting of at least one from each party. That has been our normal way to proceed. We have in this committee on occasion provided funds for members of the committee to attend particular conferences on their own, so we do have precedence for it. The reason I am a little apprehensive is that Mr. Sterling is not a regular member of the committee. He can be substituted on to the committee, and he has been on the committee--

Mr. Sterling: I am now, I believe.

Mr. Chairman: I am told he will be named tomorrow to be back on the committee.

Mr. Sterling: Today or tomorrow.

Mr. Chairman: My problem is I do not like substitution on the committee, and it always has been my bias. The fact we have a permanent standing committee with regular members assists me a lot. I do not like the appearance that someone might substitute on a committee for a particular purpose, but we are now handling legislation and so we do have substitution, and I am realistic enough to know that we often are faced with circumstances that mean we have to do substitution. While I prefer not to have substitutes, it is a regular part of the proceedings here. It is quite in order, and there is nothing wrong with it.

I have had a request to attend from one member, and I seek the direction of the committee. If other members go, you will make my job a little easier. Give me some direction here.

Mr. Warner: First, with respect to the national conference of state legislatures, because of the contacts we have made previously, I think it is a valuable exercise to this assembly to have an ongoing connection with that conference. I think that is a valuable contact for Ontario to pursue, and it is something that you cannot just pick up for a little while and then drop. It is the kind of thing that should be a regular ongoing connection. I think that is important for our province.

1540

I am not able to attend, but if it is at all possible, I think we should have at least one person from each caucus attending. At each opportunity when these conferences come along, if we are able to do so, we should send a small delegation to maintain those links we are attempting to establish and, in particular, to make sure that we make contact with the border states, Michigan, New York and so on.

Mr. Chairman: Like Alabama.

Mr. Warner: At the conference obviously.

Mr. Chairman: ~~14~~ which border you are looking at.



Mr. Warner: I would like to see it possible that one of us--

Mr. Chairman: I seek your concurrence then. My intuition says--and we stated last year--that we wanted to establish our relationship with this conference of state legislatures and that we should take whatever opportunities were available to attend. If I had one from each caucus, I would be a little happier.

Mr. Martel: I will volunteer. I will make the sacrifice.

Interjections.

Mr. Chairman: I do not want to preclude this. We did not put this on the agenda for the full committee to go because it is one of their regional conferences. Could you leave it in my hands then? If I have one from each caucus who would like to attend, that I have the concurrence of the committee to authorize their expenses? Are we in agreement with that?

Agreed to.

Mr. Chairman: I have Mr. Martel and Mr. Sterling, and I may have--

Mr. Mancini: We will have to talk about it.

Mr. Chairman: Okay. If you are in agreement with that, I have no problem with it.

Is there any other business?

Mr. Dean: It would be correct for Gilles to go because he is bilingual.

Mr. Morin: I would love to go.

Interjection.

Mr. Morin: But I am on a committee on Sunday shopping. I think it is more important than going to Alabama.

Interjection: They have Sunday shopping in Alabama.

#### ORGANIZATION

Mr. Chairman: Is there any further business?

Mr. Martel: I have one question. The Laughren matter has been referred to us. The threats by those thugs on the lottery, and the number of phone calls, the threats on Floyd have forced the Premier (Mr. Peterson) not only to say that the Ontario Provincial Police would become involved but that he was referring it to this committee.

Interjection.

Mr. Chairman: Yes. I am told by the clerk that we have received it and it will go on our agenda.

Mr. Martel: You do not know when?



Mr. Chairman: No.

Mr. Martel: It may be, if you cannot get Scott and company on freedom of information, we could look at it then. That is possible.

Mr. Chairman: We stand adjourned until Tuesday, February 17, at 10 a.m. We will invite the Speaker and the Clerk of the House to attend that briefing.

The committee adjourned at 3:43 p.m.

## LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

APR 5 1987

Tuesday, February 17, 1987

The committee met at 10:06 a.m. in room 151.

## MEMBERS' PRIVILEGES

Mr. Chairman: Okay, we have a quorum. I think we can get started.

Mr. Callahan: Is this a smoking or a nonsmoking committee?

Mr. Chairman: This is a smoking committee.

The matter before the committee--and I will draw your attention to item 3 in your briefing book--is a motion from the standing committee on public accounts which was adopted by the assembly. I will go through that quickly:

"Your committee begs to report the incident of the attempted serving of the member for Brantford (Mr. Gillies), a member of the standing committee on public accounts, with a writ during the proceedings of the committee this morning.

"Your committee recommends the referral of this matter to the standing committee on the legislative assembly for investigation and report to the House as soon as possible.

"In view of the fact that the standing committee on public accounts feels so strongly that it cannot be interfered with in the conduct of its business, your committee recommends strongly to the committee to which the matter is referred that it consider the engagement of legal counsel to assist Mr. Gillies in defending himself against legal action arising from the matter."

I will update members. You will be aware that we decided not to hire legal counsel for those purposes. In those rather ominous black binders, we have assembled as much material as we could gather. We have provided you with all of the affidavits that have been submitted to the committee, to the Speaker and to anybody we could think of. We have gathered together the precedents, and this morning, we have invited the Speaker and the Clerk of the assembly to attend and to basically brief the committee on how it might proceed from here.

You will also be aware that, for the remainder of this week, we have scheduled witnesses as selected by the committee on a recommendation of the steering committee, essentially all of the principles who were involved. We report to you this morning that they have all accepted the invitation to appear. It does not seem to us that a Speaker's warrant will be necessary in either of them. We are having to juggle timetables a bit, but it seems that we can accommodate them in this week's period.

Before we start, I will remind you that we are on kind of a restricted timetable for sitting. The steering committee and the committee itself decided that we would try to at least hear the witnesses this week. We will have some time on Thursday afternoon to give some direction to staff. We may be in a

somewhat awkward position of writing or drafting the report and not dealing with the finalization of the report until perhaps some time into March. But the consensus was that we should at least try to hear the witnesses this week and get started on the drafting of the report. It may be possible to conclude that this week, but if it is not, the process will be to provide direction to staff. They will draft the report and it will be finalized on the next available occasion.

Mr. Martel: You have read the affidavit. I was wondering if you ordered any sodium Pentothal?

Mr. Chairman: No, I did not. Good suggestion. Always helpful.

Mr. Callahan: I am not certain what the procedure of the committee is, but I would enquire. When these witnesses give evidence, will they be under oath, and in light of the jocular comment made by my good friend, Mr. Martel, I have reviewed the affidavit and some of the other material. It would seem as though what we will be investigating is the question of the recollections of parties--I hope that is all it is--or the version. In light of that, and I do not know whether there is any authority within you as chairman, could you stipulate that when witnesses, particularly critical witnesses, are giving evidence, they would be excluded and asked to wait outside? That is not an uncommon practice in--

Mr. Chairman: Okay. Part...

M-1010 follows



(Mr. Callahan)

....to stipulate that when witnesses, particularly critical witnesses, are giving evidence they would be excluded and asked to wait outside. It is not an uncommon practice.

1010

Mr. Chairman: Okay. This is part of what we will go through this morning. I guess we can do it now. I will take as precedent the practices of this committee. In short, they have been that witnesses appearing before this committee on matters of this nature do appear under oath, the exception being members who have already taken the oath when they are sworn in as members. We will attempt to inform them that they are appearing under oath, that they are witnesses before proceedings, and that we anticipate they will tell us the truth.

We cannot exclude people from the committee rooms themselves. This is a public meeting. The hearings, at least in part, will be televised so there cannot really be exclusion.

I am anticipating that we will entertain some discussion about counsel. In the past we have held that a witness appearing before the committee has the right to have counsel with him. The purpose of counsel is to advise the witness in whatever legal niceties he or she chooses. The legal counsel has, in effect, no status before the committee. He cannot cross-examine. On occasion we have allowed counsels to make statements on behalf of witnesses. You may consider that. Frankly, my advice to you would be to remind yourselves this is not a forum which lends itself well to the use of lawyers as they would perform traditionally in a court. The irony is that this is a court, in a sense--in one sense, the highest court in Ontario. However, it does not function along the traditions of a court, so lawyers sometimes have a little difficulty adjusting to this.

We went through some problems, I suppose you might say, last summer in the hearings on Mr. Fontaine. However, we made it through. I think we simply have to remind lawyers when they are present that they are here to advise clients and this is the extent of their involvement in the committee's process. If the committee wants to make determinations otherwise, you are free to do so, but in essence what we said in our report to the Legislature on the role of counsel before legislative committees was, "Everybody has a right to have a lawyer to advise him, when appearing before a legislative committee, but the lawyers are not members of the assembly and the only people who have the right to cross-examine, so to speak, are members of the committee."

We have asked that substitution be limited. Those who will hear evidence before a committee will take part in all of the proceedings. I am going to make the same request again--as much as is humanly possible. We do not like to see substitution. It strikes me, and other members of the committee, that it must be very hard to deliberate on a matter if you have not heard all the evidence. Consequently, where we can, we like to keep the substitution down. I understand that everybody has busy timetables, but if possible all members should listen to all the evidence presented.

Are there any other questions before we get to our two distinguished guests this morning?

Okay, does either one of you have any opening remarks you want to make?

Mr. Speaker: I really do not have anything prepared as opening remarks. I did notice in your opening remarks you said you were going to ask us how to proceed. I do not know if this is, or is not, the task of the Speaker--to advise how to proceed.

I must say though, that the matter before you took a sort of unusual twist in the House--as far as privilege--because it was brought before the House by a member and then the decision was made through a committee report. Generally, when privilege comes before the House, the matter is discussed immediately, the Speaker then decides whether it is a prima facie case of privilege, and requests a motion. In this case it was rather assumed by the members that it was--prior to the report from the committee. This is just a little different. It was a different circumstance within the chamber. I suppose it came--I am presuming it came--to the same conclusion in the end, but it was a rather different process than we usually see in the House.

Mr. Chairman: Mr. Cooke?

Mr. Sterling: Mr. Speaker, what do you mean in terms of "different?" I understood that the public accounts committee....

(1015 follows.)



Mr. Sterling: Mr. Speaker, I understood that the standing committee on public accounts in its report made a recommendation that if you referred to this committee that that was not an order as such and it was really up to the Speaker to decide whether he would refer to this committee or not.

Clerk of the House: It is not normal for a committee to ask another committee to study something. Technically it was not a committee doing that. It was a committee recommending to the House that the House ask another committee to do something. It is not the normal procedure route. The normal procedure route should have been for the member who felt that he had privilege to rise on a question of privilege and ask the Speaker to find if there was a prima facie question of privilege. If the Speaker had found such, then there would have been a motion that would have sent this to this committee anyway. The end result is probably the same.

It was not the pure form of a question of privilege that took place, because what the House was faced with was at the item in routine proceedings of presenting reports, there was a report from a committee that stated the facts that they had been confronted with and asked the House to send the matter to a committee and in that sense, removed the Speaker from the whole procedure. The Speaker was never asked to find a prima facie case. That is why the Speaker at the end of the arguments, on that date in which the Speaker sat in the chair and listened to the arguments, said it was a decision of the House but he did not have to find whether in his opinion it was a prima facie case or not because that was not the question that was put before him. Whether he would have found that or not, we do not know. You have properly before you the question to decide.

Mr. Sterling: I think the distinction is specious because the fact of the matter is that the public accounts committee experienced the alleged breach. From my interpretation of what the committee was doing, which I happened to be sitting in that day as a substitute member, was the fact that they were trying to use the experience of what they had witnessed and help the Speaker decide whether or not they thought there had been a prima facie case and it was still up to the Speaker to make the decision whether or not it was a case.

Mr. Chairman: It seems to me that in what you said, Mr. Speaker, you are indicating to us that in this instance it was the House who decided that a prima facie case of privilege had been presented to them, rather than the normal process of the Speaker making that decision. In your view, and I take it by the nodding of his head, the clerk agrees, the matter of privilege is before the committee by means of referral of this motion and the fact that it passed I believe, unanimously, in the assembly. Privilege is part of the matter that is before the committee and we have a second matter which would best be categorized as the interruption of a committee's work as being also. So not only would we have the individual privileges of a member, but in a broader sense, the privileges of our parliamentary committee before us. We would in essence have those two items as our main concern. Are we generally in agreement on that?

Mr. Martel: The circumstances are such that I think what happened--I was not there--those people really got irritated by the fact that some bozo walks in off the street and starts to serve papers and that we cannot allow that to happen. You will recall, Mr. Chairman, in July or August I asked the last time that a bozo did that, that the House should have done something with



respect to our friend who tried to serve papers on the Premier in a rather spectacular fashion one evening. I do not think we have handled that one particularly well and I think we should have indicated at that time this type of conduct by anyone in this province was not going to be tolerated. We blew that one, quite frankly. We did not act properly in my opinion, although I tried to pursue it, because I did not think that is the way you go at it, whether it be the Premier or another member of this assembly, because I do not think members can be intimidated in any fashion or treated in such a cavalier fashion by anyone.

We are now reaping the benefits of having not done our homework and I mean the House as a whole on that occasion, with respect to the way the Premier was treated. I say we are now picking up--  
M-1020-1 follows

(Mr. Martel)

--I think now we are reaping the benefits of having not done our homework and I mean the House as a whole on that occasion with respect to the way the Premier (Mr. Peterson) was treated and so I say we are now picking up the pieces for having not acted promptly and expeditiously the first time around. We are slow learners around here.

1020

Mr. Chairman: Any further comments from the members? If we can, I would like to try this morning to get about as clear as we can a version of precisely what is before the committee.

As I have heard it so far, there are two matters. One is the privileges of Mr. Gillies as an individual member. I guess the second could be called the privileges of a parliamentary committee, that is the standing committee on public accounts alleging that it was interrupted and in some way intimidated by someone who served papers. Those two matters would be properly before the committee.

Mr. Bossy: Elie, ??with regard to the issue of someone walking in on a committee that is in progress or whatever at the start and the incident that did happen earlier, you said the committee did not take any action. The committee has taken action whereby it formed a subcommittee to look into the whole affair as far as security is concerned.

My point is that we have known the Legislature has been a fairly free and accessible place. We conduct meetings mainly in the open. This does not happen to be one of them, but the question is, are we going to have someone at each door asking for credentials so that they walk in unannounced and we do not ask who they are. They have access to the room and then can disrupt that meeting and these incidents will happen then.

How do we change the whole forum? I do not know. If an incident does happened such as now has happened to Mr. Gillies and before to the Premier, I think we have to deal with those cases individually as they come up and make it very well known the position we have. Maybe if it is known the type of decisions we must make on our privileges--

Mr. Martel: I have a question for Mr. Bossy. I agree with him that we do not want to make this into some sort of camp where you question everyone who comes in, but people have to understand that they cannot come in, particularly people like lawyers and people who know. It is vastly different having someone walk in off the street who knows nothing about the parliamentary system and the laws of this country; that is one thing. But by God, when a lawyer or his representative comes in here--if they knew the consequences of such conduct, then you might not have that sort of approach.

I agree with you what we have to do is get to a position where people know there is a proper and an improper procedure and in particular those who are learned in the law are going to pay the price for that sort of nonsense.

Mr. Turner: The question before us, even though it involves a committee and a single member, would strike me as being the same, a matter of privilege and of privilege being offended whether of the committee or of the

individual members.

In commenting on the remarks by Mr. Bossy, perhaps it is not well known, even by some of the members, that the chamber and the committee rooms as well--even though they are and have been and I hope will remain accessible--the public who attend these meetings are there at the pleasure of the members. I do not think there is an individual right for anybody to be here.

I do not think it is a question of searching or checking everybody. If the members choose to have a meeting in camera as we have this morning, there is nothing to preclude that; in fact, there is everything to support it. What we are talking about is a question of privilege, simply and plainly, and whether the privileges of the members have been offended. If we can focus in on that one area, we will not digress into various other paths.

Mr. Chairman: It appears to me I should inform you we are not in camera this morning, in fact--

M-1025 follows.



(Mr. Turner)

...then we will not digress into various other paths.

Mr. Callahan: There are two.

Mr. Chairman: It appears to me I should inform you that we are not in camera this morning.

Mr. Turner: I did not think so, with all our friends sitting back here.

Mr. Chairman: In case you are surprised, The Globe and Mail reporters are here, and we are televising the proceedings this morning. We did not have the motion to go in camera and so our normal process is to keep the record going and the meeting in public.

Mr. Morin: I thought he had special privileges.

Mr. Turner: But the instruction said on the notice that we were, so I did not want to argue.

Mr. Chairman: It would be a short argument. It is a top-secret, public meeting. Mr. Callahan.

Mr. Callahan: Mr. Chairman, the discussions that have gone on thus far, and I think in line with comments that you made originally, that we are really sitting here as the highest court in the land to determine an issue, and some of the things that are said, and I know that these committees are far-ranging and that lots of things are said, but I think we have to be very careful not to jump the gun and decide that one side or the other is the truth; and I think that is very important for us to sit here and discuss the question of whether or not this person burst in here and whether or not a law firm.

I carry no brief for any of them. I want to get to the root of this. But, I think it is important that we not give the perception before we have heard the testimony, before the witnesses have been examined, as to just what the facts are. I simply express that caveat because I think in that respect your comments are very well taken as being the highest court in the land. We have to conduct ourselves in a way that we will not predetermine or make statements that will predetermine what the testimony is or what is true or what is untrue.

Mr. Martel: I suspect my friend is making reference to my opening statement.

Mr. Callahan: No, no, no. That, I do not have difficulty with, but I do when the comment is made by one of the members--and I am not sure who it was--that this law firm should know better and that it should not allow this guy to rush in here. Of course, I am sure each one of you has read through the various allegations, and we are really predetermining in that respect by saying that. That is all I have to say, Mr. Chairman.

Mr. Martel: I guess my problem is, I would have difficulty--and I say that openly--believing that someone from a prestigious law firm does not

know how to conduct himself when it comes here .....??... and intervenes in the midst of the deliberations of the committee. I mean--

Mr. Bossy: You are saying, Elie, that lawyers are infallible.

Mr. Martel: They are not.

Mr. Callahan: If lawyers were infallible many of us would not be here.

Mr. Chairman: A couple of questions for the Clerk, and maybe Mr. Speaker, you could assist us a little bit here. On previous occasions when we have heard matters of privilege, it has, in fact, been law firms of a rather prestigious type that were before the committee and were involved in matters of privilege, and I think it is not unfair to say that the legal profession is not terribly aware of what parliamentary privilege is, what a parliamentary committee is all about and what it can do. Is there any notification process, say, to the ??Law Society that would inform? In other words, do we have a reasonable right to expect that a law firm, big or small, prestigious or not prestigious, would have any awareness of parliamentary privilege or any of the aspects that we will be discussing?

Clerk of the House: Actually, you are quite right. There is a great ignorance, not only in law firms but across the land as to what happens here and how it happens; and the point is that I think, in fact, law firms do not know, but that is my opinion. I do not think they know. Now, whether they should know or not, that is another matter. In my opinion, they should know. I mean, any law firm that respects itself and that uses people to serve writs and warrants and so on should have guidelines, and right up there at the top of those guidelines should be a notification that the precincts of the Legislative Building are--well, for the lack of a better word--sacred in that sense, that you do not enter into these precincts to serve members while the House is in session and, I maintain, even when the House is not in session. I do not think that has any effect on the matter. But, a straight answer to your question, they should know.

Mr. Martel: That should be something that is right upfront. In my opinion, they do not know.

Mr. Chairman: Mr. Speaker, do you have anything to add?

Mr. Speaker: If I could be so bold as to add that I think every law office does have a copy...  
M-1030-1 follows.



(Mr. Martel)

...This should be something that is right up front. In my opinion, they do not know.

1030

Mr. Chairman: Speaker, do you have anything to add?

Mr. Speaker: If I could be so bold as to add that I think every law office does have a copy of the Ontario statute, and it is certainly within those statutes. I do not know whether they are informed about every other piece of legislation specifically--it is in the act, and they should be aware of it.

Mr. Martel: What bothers me about that is that lawyers do not go into city hall and break up a meeting, because they know they have to get on the agenda. They just cannot walk in and say, "Here I am; whoopededoo." They do not walk into a court of law and just burst into the scene, six guns a-blazing, and start firing from the hip. I find that rather strange, that lawyers think they can come here and conduct themselves in the same way.

I do not care whether they know what privileges, but there is nowhere else in society where they can just bust in or break in, and interrupt a meeting, and they do not do it. Now around here, it is no different, so whether they know what privileges, is not the question in the sense of right or wrong. They know that lawyers do not conduct themselves in that fashion.

I just think they play a serious game when they burst upon the scene the way they did, or someone on their behalf, without any--as I say, they do not conduct themselves in that fashion anywhere else. Why would they think it is any different around here, that they can just burst in the milieu? Whether the privilege is written up or not, I just think whoever directed that bird to come here did so in bad faith.

Mr. Mancini: I just want to make a point here. I understand the conversation that we are having in general terms, but the specific matter that is in front of us is somewhat different in that there are two people, or more than two people, telling two significantly different stories. It was not the law firm that burst in here six guns a-blazing, it was a representative, a server used by, I am assuming, many different law firms, who took a job on behalf of a law firm and then tried to execute that job--from their affidavits, they say, to the best of their ability.

They are saying they undertook these steps because of certain things that they were told. We do not know much more than that because we have not gotten into the actual asking of the questions. While I agree in general with some of the things that have been said this morning, I do not necessarily want that to mean that we have automatically come to a conclusion because we have not heard anybody on this specific case.

There is a very long story here to be told. I am quite concerned about the way things took place in that committee; I was there that morning. I was just as apprehensive as all other members that the situation took place. On that specific story that we are going to be dealing with, there is quite a difference of opinion in the affidavits.

Mr. Warner: A couple of things I would like to go back to. One is



The clerk is absolutely right. One of the things that would be really helpful is if the committee came up with some definition of what precincts are with respect to the assembly. Committees do travel. When a committee is meeting outside of Queen's Park and doing committee business as directed by the House, then is that precinct for that purpose?

That brings up the question of whether the committee is outside of Queen's Park but within Ontario, outside of Ontario but within Canada, or outside of our country. It is something the committee should consider and I would hope the members would take it seriously.

If I could, Mr. Chairman, another question and it goes back to the M-1040-1 follows

(Mr. Warner)

...and I think that it is something the committee should consider and I would hope that the members would take it seriously.

1040

If I could, I have another question. It goes back to page 3 of these briefing notes, presented to us by Smirle, on the serving of process. About three quarters of the way down, there is a quote from ??Mango, which I find kind of interesting.

"One is loath to suggest that a member of the House of Commons may not invite whomever he pleases onto the precincts. It may not be sufficient answer for police or others coming on the precincts on official business to say that the permission of the member was the object of the activity that was obtained because it is the House that is the subject of any contempt, not the member and therefore only the House or the Speaker may give the necessary permission."

I would appreciate the clerk's and Speaker's opinions. Can I interpret that to mean that actually, as a member, I am not at liberty to simply invite whomever I wish onto the premises, such as inviting the police on to do an investigation or inviting someone on to serve papers on some other person? Is that a proper interpretation of that?

Clerk of the Committee: You have a distinction to make here in privilege. Basically, privilege is attached to do different bodies. There are certain privileges attached to members individually and there are certain privileges that are attached to the institution. It is referred to more and more in the doctrine as the corporate privilege. What you are talking about is that corporate privilege.

In fact, I would agree with this quote that the privilege on access to the building belongs to the corporation. I would go back to the example that the Speaker used when he was served and I think he acted properly. He went out beyond the precincts and was served. It is not up to a member to decide if you can be served by outside people in the precincts because it is not a right that is attached to him, but it is a right that is attached to the corporation as such.

Mr. Sterling: I just wanted to comment on what a lawyer should or should not know in terms of this whole matter. When you are dealing with substantial legal counsel, the difference has always been, in my view, that a very good lawyer would know when there are warning bells around.

Notwithstanding knowing that there is a specific provision in the Legislative Assembly Act, section 38, dealing with this, there is no excuse for a lawyer, in terms of dealing with this matter and not looking at the Legislative Assembly Act, but just thinking, "Hey, shouldn't there be something? There might be another provision around here dealing with a member", especially when you are coming with the type of suit that is involved here, a libel suit, against a member for what he said to the press, etc. I do not buy that.

A lawyer practising in Manotick, my home town, might not have the same level of expertise because he is not dealing with MPPs very often, I hope. On

the other hand, when you are dealing with a different institution, there are really good grounds for knowing that there are warning bells.

Second, in terms of dealing with the agent for the lawyer, the process server, I think we have to recognize that he was an agent and that the principal who sent the agent out is responsible for the agent's action, notwithstanding that he does not have control of him; he chooses to do that. That is all I have time to say.

Mr. Chairman: This is a little byproduct of that. One of the concerns which has been raised with me privately, and with the committee by means of a letter, and I confess that I do not think we dealt with this very well, is the matter of staff of the members and whether they are in any sense legally responsible for actions or in a parliamentary sense accountable to the House for their actions.

I wonder if either one of you could offer a comment or two on that. We went through the books on it. It is certainly not very...

1045 follows



...legal responsible for actions or, in a parliamentary sense, accountable to the House for their actions. I wonder if either one of you could offer a comment or two on that? We went through the books on it. It is certainly not very clear by means of precedent. There is nothing in the standing orders which deals with it. There is nothing that we could find in the Legislative Assembly Act.

I would be interested in your comments on the position of people who are working in a member's office at any level. For example, Mr. Sterling just used the other side of the coin; that is, somebody who serves papers is acting as an agent for a solicitor or lawyer and, in fact, is responsible to that person and they are acting on his or her behalf. I am not quite clear whether that same provision applies to people who work for members in their offices. Is there any assistance you can give us on that?

Clerk of the House: I think on a lot of these matters you have to go back to origins in Canada. I guess as an example of that, I can use the example of section 38 itself and this famous 20 days. What does it mean and where does it come from and all the arguments that have been around it. In Ottawa, it is 40 days. Some argument has been made that members would be completely outside the vein of ever being served, because in Ottawa, to use that example, they do not even break between sessions, so what the heck.

The basis for the way this is written goes back to when sessions used to last two or three months and it took 20 days to get down to Queen's Park by buggy and it took 20 days to get back home by buggy. So today, these parts of the thing really do not apply. Maybe the Legislature should give some serious thought to changing this.

To get back to your specific question on members, you go back again to the same principle where Legislatures used to be manned by very few people staff-wise. Members did not have staff. Therefore, of course, you will not find any specific descriptions of any type of protection that is attached as well to a member's staff. But you will find in the doctrine that the same protection given to members is given to officers of the House who were probably the only people around in those days when it was written. Therefore, by extension, I think, you can go ahead and say that, "Yes, you could attach a certain--" But the privilege is always attached to the member. Only the member has the privilege. But the member might argue that, now that he has staff, because his staff is somehow being stopped from doing his or her work, that affects the member's privileges. I think that argument can be made. But again, no, you will not find anything on the books because this business of staff is very new.

Mr. Chairman: The reason I raise that is that, for example, the Ontario Public Service Employees Union bargaining unit which represents people who work in my own caucus, have seen fit to put a clause in their contract which says, in essence, that if the member gets sued, and it is common practice in lawsuits these days to sue everybody you can think of, and five years later, when it actually gets in front of a court, you are down to two or three people or perhaps the person you think is most likely, but initially, everybody who was part of the action, so to speak, gets named in the suit-- So our employees want to make sure they are protected and that the caucus will provide them with some funds for legal assistance, for example.

(Mr. Sterling)

--I would not claim privilege in order to avoid that kind of a service of the civil suit, nor do I think that we should have that particular kind of privilege.

1050

When you are making law or interpreting law it should be there for the intention of what the law, what section 38, was created for. As I have stated in the committee and as noted in his notes, the timing could not have been poorer by the server in terms of trying to intimidate somebody or appearing to try to intimidate. The timing was so key in this particular instance as well. That is why it is difficult to write the law.

Ms. Fish: I want to agree, one of the rare occasions that I do, with Mr. Callahan, who said some few minutes ago that he felt that we did not need to spend an awful lot of time going over the question of precinct if there was a discussion about a committee hearing or a committee in session somewhere outside of this building or outside of Toronto. I very much agree with that.

In considering the issue of precincts, I think we should return perhaps to the clerk's advice to us, which is that the purpose of the bar of service is to enable the member to continue to perform his or her duties as a member, therefore committee in session or about to be in session, chamber in session, or about to be in session, wherever that might be, and the office of the member, clearly would be covered. It strikes me that one would probably cover constituency offices as well by the way, an innovation like the automobile not known in the days of the original development of this tradition.

I also think it is important when we reflect on this particular case, that we consider that this is a case that falls flatly into the area of a member attempting to do the work of a member. This is not a case of a bad debt on a car. This is the case of matters being raised by a member on expenditure of public funds and investigated as same, through the appropriate legislative vehicle in the public accounts committee, that member being a regular sitting member on that committee.

In light of that, the question of extension to staff becomes direct and very germane because we are here dealing with a reasonable assumption that is twofold. One, that staff do not act outside the authority of the member and second, that staff in being employees of the member, are often at the direct instruction of the member.

I would agree that I think again in a case such as this, and I distinguish it and my colleague, Mr. Sterling, has appropriately distinguished it from a personal issue of an individual member perhaps the case of a bad debt on a car loan. It is appropriate to consider extension of coverage to staff members. Your staff, Mr. Chair, you indicated had perhaps dealt with by way of asking for a clause in their collective bargaining agreement. That would save them harmless on any suit. Perhaps that is one way through the back end.

My sense of it however, is that we should consider very carefully what the precedent is here on staff and the work of staff, particularly since I think it is fair to argue, as the clerk has suggested to us, that the staff are working for the member and at the direction of the member and specifically charged with assisting the member to carry out properly his or her duties as a



member of the provincial parliament.

I think that is indeed something that we should consider here. I for one think that the case, as the clerk has suggested, can be made and that the privilege should likely extend.

On the matter of whether or not law firms should know, I am inclined to agree that lawyers get to be lawyers in this province ostensibly because they know the law. If a law firm--

Mr. Callahan: That is a tremendous leap of faith.

Ms. Fish: Now, Mr. Callahan, I said ostensibly.

M-1055-1 follows



(Ms. Fish)

--could be because they know the law and if a law firm was particularly--

Mr. Callahan: That is a tremendous leap of faith.

Ms. Fish: Well now, Mr. Callahan, I said ostensibly and I think that where you are dealing with individual lawyers or firms who specialize or have a reputation for particular work, there is a reasonable assumption that there would be particular knowledge about any of the more obscure elements of law that may bear upon that particular specialty.

My understanding is that in this case, Stikeman, Elliott does a great deal of libel and slander work and is well known in that regard. Given that circumstance, it would be a very reasonable conclusion that they should know and likely would have known exactly and precisely what they were doing.

Also note in the case of the process server, I agree with my colleague, Mr. Sterling, servers are not independent. They operate as extensions of the lawyers who in turn operate as officers of the court. They are not independent themselves in such matters. I would also note that if process servers have as their business serving writs, letters of intent and notices, one might presume they know just a bit about what some of the requirements, conditions and parameters are of undertaking that service. I will just stop there for a moment.

Mr. Chairman: For your interest, I have given some thought to whether we would get into situations where I would have to make rulings on this kind of stuff. My inclination would be that ignorance of the law is not much of a defence here. It seems to me that the court system regularly throws out charges against people because somebody did not file a piece paper the proper way on the proper date.

I would be very much inclined to rule in the same way if that kind of stuff becomes necessary during the course of these hearings. We do anticipate that someone who represents you in a legal sense is qualified, has some knowledge of the law or at least some ability to get some knowledge of the law, so there is not much of a defence there.

I had given some thought to this whole matter of whether staff might be included in some kind of protection of privilege and my inclination in that regard is simple to go back to what the clerk said earlier. Basically the members themselves do not entertain something called privilege. They are associated with it but it is essentially the parliament that has that so that if this committee were to decide, for example, that the staff is kind of an extension of the member, I suppose that is in your purview and my safeguard in that is we are not really giving any individual who might be employed in a member's office any kind of special right whereas we would be extending the right of the parliament itself.

The process is just because I stand up and say my privileges have been abused by somebody, it does not mean anything until the Speaker gives a ruling or the parliament as whole decides they have. So, there is a fairly good sorting system at work here. I cannot go to my banker and say, "You are violating my privileges in trying to collect the mortgage money this month" and I would not care to take that to a parliamentary committee to get it

upheld either because I think I might lose that one.

Mr. Callahan: It depends on what state your mortgage is in.

Mr. Chairman: It depends on what you need. I think there is a pretty good vetting and selection process at work here. I really do not have any qualms about putting limits on what the committee might talk about or consider in this.

Mr. Callahan: First of all, I would like to direct your attention to the fact that there really are two issues here. The first issue is contempt of the Legislature which can be achieved by the service of a process in the face of either the House or a committee.

The second issue is privilege. They do not run into one another because specifically section 38 and more specifically the penalty section, section 47, refers to either or, so you are really talking about two things. It may very well be a finding could be made by the service in this committee that the server was in contempt, but I suggest to you the question of privilege really revolves around the issue as to whether--and I am not making a decision on whose set of facts I believe here--on the basis of those facts it would be left open to the committee if they were prepared to accept the fact that Mr. Gillies or his executive assistant--

M-2000 follows.



(Mr. Callahan)

...but I am not making a decision on whose set of facts I believe here.

1100

On the basis of those facts, it would be left open to the committee. If they were prepared to accept the fact that Mr. Gillies or his executive assistant, or both of them, knew that the service was to take place within this committee room, then in fact Mr. Gilles privileges have not been violated in that he had, as the clerk said, waived that right to privilege by inviting this person to serve him.

It is very important to make a clear distinction between the question of contempt and the question of privilege. One is a personal matter that a person has, being a member of the Legislature, and that privilege can be waived, as the clerk has indicated to us. It is very important to distinguish between the two of those. We are lumping them together and you cannot lump them together, with the greatest respect.

I see heads shaking over there. Let me just take you to section 47, which is at page 16 of the brief. It says, "Where the assembly declares that a person has been guilty of a breach of privilege or," and I emphasize the word or, "or of a contempt in respect in any of the act's matters and things mentioned in section 45." I suggest to you that they are two distinct rights. One is a right reserved to the House and to the committee structure; the other one is a right reserved to the member.

If we lump them together, we are going to be in serious difficulty because we may very well decide, and it is probably a given, that this man was in here, that he did serve Mr. Gillies within the face of a committee and may very well be in contempt. The second question is if Mr. Gillies' privileges were violated and that will be determined on the basis of the finding of fact that we make as judges on this committee as to who we believe, whether we believe neither one of them or whether we believe a little bit of each. That is the real decision we have to make.

I would like to ask the clerk just a final item, if I could. I raised this when the matter came up. It has always been my understanding that the historical background of a member not being subject to arrest, molestation or detention relates back to the old days when, for a civil matter such as debt, you could be put in debtors' prison and if not, the reality of it was that if you allowed process to take place while the Legislature was sitting, you might very well find out, depending upon how many scoundrels you had in the Legislature at that time, they would all be cast into debtors' prison and you would have nobody to conduct the business affairs of the state.

Mr. Martel: We are not talking about Ottawa.

Mr. Callahan: I do not want to be partisan here. I notice that was not in Smirle's brief to us, but it has always been my understanding that is the central reason. There may have been spinoffs from that as a result of determinations that were made down through the ages. It is almost like the sanctity of going into a church and being able to claim safety of church; that was also an historical accident.



I really think you have to view it in terms of that. I think section 38 certainly needs clarification and perhaps even a redrawing so that everyone knows exactly what they are subject to or not subject to.

Mr. Chairman: It is interesting that when you get back into ??Erskine May, the bible of all of this. The basis of privilege was that it was pretty common technique at one time in the British Parliament, if you really did not want certain members to attend the Parliament, you would bop them on the head. Of course, the monarch was not terribly happy with the Parliament being in existence and so monarchs were not reluctant to throw people in jail for various reasons.

That is essentially the beginning of the concept of privilege. It is a little more sophisticated these days, but that is essentially what it was all about, that members, once they are elected to a parliament, have a right and an obligation to go and discharge those parliamentary duties. That is really what it is all about.

Ms. Fish: I had a different impression from the clerk's testimony than the interpretation Mr. Callahan gave and I wonder if I could ask the clerk if he has any elaboration for us.

Clerk of the House: First of all, from the clerk's point of view, of course, there are never any scoundrel's sitting in any legislature. It just does not happen that way.

Mr. Mancini: Interjection.

Clerk of the House: Well, that is something.

1105 follows

(Clerk of the Committee)

It just does not happen that way.

Interjection.

Clerk of the Committee: Well, that is something. Okay. No, listen. I go back to your statement, Mr. Callahan, privilege is twofold, but it is privilege. There are two types of privileges attached to a member--to the person of a member--and basically that privilege is the right of free speech, and that is very confined. It is in the chamber and in committee. He has the right and cannot be sued for what he or she says.

The second privilege, which is attached directly to the person of a member, that is the right to attend, and that is the basis of section 38. He was elected and that takes priority over all other matters, the right to go and attend and do the legislative business that he or she been elected to do. Those are two privileges that are attached to the member specifically.

When we talk about contempt, it is still privilege, but contempt is the act that breaches the privilege of the institution. If you opened your Globe and Mail this morning and the lead editorial said that 75 per cent of members of the Ontario Legislature were crooks, somebody could get up in the House and raise that as a question of privilege, and the House might find that the editor was in contempt of the House. So, basically, that is the nub of the question, and, yes, Mr. Breaugh, you are right, that was a good way of getting people from not doing their job.

Also, section 38, you all know is very clear, it is civil, nothing to do with criminal matters. A member who is late for an important meeting in his office here in the Legislature and who is caught speeding with a few drinks and stopped by the cops, you can call on privilege there even though he or she might maintain that he has to attend his duty as a legislator; no, I am sorry, the policeman has every right to stop him and put him in jail if he wants to make a fuss.

Mr. Callahan: Could I have a supplementary on that, if I might? Mr. Clerk, following up on that, would you agree that with reference to the privileges of a member, that if the facts as found by this committee were that Mr. Gillies and his executive assistant either/or or both were aware that this was going to happen and, in fact, contributed to it happening, could we find that those facts as found took away that privilege?

Clerk of the House: Privilege is permanent. A member cannot waive his privilege. It is something that is attached to the person, and a member cannot waive it; and I go back to the example given by the Speaker at the beginning that he was to be served with a writ and he had not the permission himself. Only one person in this building or the House itself has the permission to give access to it, and that is the Speaker or the House itself, and so the Speaker in his former capacity as a simple member went outside and was served. That is the proper procedure, I think, because you cannot divest yourself of your privilege. It exists. It is there.

Now, I do not to get into the merits or the facts of this case. This will be for you to decide. The committee has as a job right now, has been asked by the Legislature to look into the facts and come up with a decision as

to whether or not privileges were breached. Now, I can tell you that, in my opinion, it is a contempt of the corporate privilege to serve a writ here in these precincts without permission of the Speaker. I think that is contempt, but it is not something to do with the member because the member was not being stopped from doing his duty and the member was not being stopped from using free speech. But, it is a breach in our practice of parliamentary privilege attached to the institution to enter the precincts in order to serve a writ.

Mr. Callahan: I am sorry. That creates a conundrum. If the facts were found that Mr. Gillies and his executive assistant or either/or or both, in fact, knew about this and, in fact, contributed to it being done in this committee, what penalty are they open to?

Clerk of the House: The question of penalty, Mr. Callahan--

Mr. Callahan: Maybe I should put it better this way. What have they infringed?

Clerk of the House: The question of penalty, Mr. Callahan, depends upon this committee and as you will go through, I am sure, with your clerk and with other people and I can go into it briefly here, over the years...  
M-1105-1 follows.



(Mr. Callahan)

....or both knew about this and contributed to it being done in this committee. What penalty are they open to?

1110

Clerk of the House: The question of penalty--

Mr. Callahan: Maybe I should put it better--this way: What have they infringed?

Clerk of the House: The question of penalty, Mr. Callahan, depends upon this committee. I am sure you will go through with your clerk and other people--I can go into it briefly here.

Over the years the tendency has been to go easy on penalties. However, I come back to the point raised by Mr. Martel at the beginning, and also voiced by your chairman. It is highly important for this committee, and for other committees and the Legislature itself, to make sure these privileges are not taken lightly. It may be that this Legislature--and it may be that other Legislatures in the past 40 or 50 years, have been a bit lax in this and have been--I am not talking about--of course, you have the right to imprison someone. I learned recently the Legislature in British Columbia actually has a dungeon in the cellar. It is not used, but it is there. I am not recommending you remove the barber and set up a dungeon downstairs.

Mr. Chairman: We have got our own jail. It is downstairs.

Clerk of the House: It is a question of making it very serious. If you find there is a breach of privilege here, it is important that, as a committee, you act in a way that it be made public knowledge--that it be taken seriously--and not just write a letter or something which really does not serve the purpose, as has happened in recent years.

Mr. Callahan: Just for clarification, I gather the long and short of this is--and I would like to know what the motion is--

Mr. Chairman: --that is why I read it at the beginning of the meeting. You have a copy of it in your book.

Mr. Callahan: I do not think there is, I could not find one.

Mr. Turner: It is in your briefing book, Bob.

Mr. Martel: Try section three.

Mr. Chairman: Are your fingers crumpled up? Do you have trouble counting this morning?

Mr. Callahan: No, I do not have it on page three of mine

Mr. Turner: No, section three of the big black book.

Mr. Callahan: The reason I raised this is, in light of what the Clerk has said, I am not sure whether the motion goes on to state--again I am

saying I am not making a determination on the facts. However, if the facts were to come out--that what had happened was Mr. Gillies and/or his executive assistant had done these things, we might then find, on what the Clerk says, that there was contempt because of the service. The privilege had been breached because it was served here. Are we also investigating the question, if the facts were determined on that basis, as to whether or not Mr. Gillies had said something to the House, which was incorrect?

Mr. Chairman: I have given some thought to all the ins and outs and what kinds of rulings might emanate during the course of this.

I would say this for starters: The matter, in total, is referred to the committee, so I am not going to limit, by way of restricting questions or anything else, what members have to say. When we get to the point where we are deliberating on what should be in the report, again, the chair is certainly not going to inhibit what people want to put in the draft report or what your findings might be. The inhibitions would only come about by means of precedence, so we have tried to give you as many of those as we can.

I would suggest to you that, on a matter of privilege, if you find a member's privileges have been ??abroached--and in this instance the House has essentially said there is a good case to take a look at that--circumstances would mitigate cases somewhat. However, as the Clerk has said, by and large, committees delving into these matters do not get involved much with penalties. Whereas you might say, "There are mitigating circumstances, so the fine will be five dollars instead of \$5,000," it is rather unlikely that we will be doing something of that nature. It might effect your judgement as to how you saw the facts. It might effect your findings somewhat. However, the case before the committee is fairly straightforward in the sense that we have a motion which was put together by one of the committees, the House has already dealt with the matter--that this should be referred to us. If there are limits, the motion would be the limit. The other guidelines would be the practices and precedents. We have those.

I do not want to inhibit any line of questioning, but I am going to try to get you to be as relevant as you can be. I think the committee, in ordering its business, may have put the more realistic limits on it. If this is going to be a fishing expedition, it is going to start out as a three-day fishing expedition....

(1115 follows.)



(Mr. Chairman)

--that should be referred to us. If there are limits, the motion would be the limits. The other guidelines would be the practices and precedents and we have those. I do not want to inhibit any line of questioning, but I am going to try and get you to be as relevant as you can. The committee in ordering its business may have put the more realistic limits on it. If this is going to be a fishing expedition, it is going to start out as a three-day fishing expedition. Fish if you want to, but fish quickly. Use nets, bombs maybe, things such as that. Let us not go for a slow troll through the weeds here.

I am going to put the onus on members. If you have a line of questioning you want to develop, I will let you develop that, but get on to it. Do not have us sit around all morning. The schedule that you have adopted to hear witnesses is going to make you pretty much adhere to that.

Mr. Turner: Mr. Chairman, I have some difficulty with the responsibility of the members' staff. In my own view, it would be very difficult, if not an impossibility for the member, keeping in mind that we do enjoy certain special privileges by virtue of the fact we were sent here by open election to represent a group of people. I do not think we can delegate that authority, neither can we delegate that responsibility. I do not think that I can say to my staff member, "I cannot attend whatever, would you go over and sit there in my place." I know for a fact that cannot be done. Therefore, I think it follows that neither a member by direction or a staff member by assumption, can take the responsibility of giving direction or instructions to somebody on behalf of a member. The relationship between a member and staff is that of employer, employee. I have serious reservations and some doubts, as I say, to the validity of a staff person acting on behalf of a member.

I have further reservations about the title which has become popular in the past few years, of designating legislative assistants, which is a clear implication that the person as so designated, may carry out by direction some of the responsibilities on whose ever behalf they may be working. I think that is wrong. I just want to make clear by way of making that statement ask the clerk if that is a rightful assumption or statement or is it subject to interpretation or in fact can we delegate authority?

Clerk of the House: I think you are right, Mr. Turner. I always go back to the Watergate thing and the President's men. You have a good comparison there. Ultimately, you are quite right, the member can not delegate his or her main reason for being, that is acting as a member of parliament.

When I was answering the question previously to the chairman, it had to do mainly with the fact that there are for example staff that are necessary for the operation of the House and they are protected in certain ways, the same way as a member is protected. For example, I enjoy the same provisions of section 38 as you do. On the other hand, I do not have the right of free speech.

Therefore when we get back to the original question asked by you, chairman, it is that with the advent of staff in members' offices, without the right of delegation of the main responsibility of a member, which is to legislate and to act on behalf of constituents, the fact remains that now a member it is assumed that a member needs a certain amount of staff in order to operate in his or her own best way and it could be argued--

M-1120-1 follows



(Clerk of the House)

...on behalf of constituents, the fact remains that now it is assumed a member needs a certain amount of staff in order to operate in his or her own best way. It could be argued that, if someone on a member's staff were physically stopped from attending the Legislature or the office one day by a person who wanted to hinder the work of the member, the member to whom the privilege is attached--and only the member has the privilege--might claim that, because his or her staff has been impeded in some physical way, that has stopped the member from doing his or her work.

1120

We must not go so far as to say the member of the staff has a privilege. The privilege is still that of the member. The member is the one who could make the argument that, because his or her staff was impeded in some way, that affected his or her privileges to function as a member.

Mr. Warner: If I may ask a supplementary coming out of that, by the same token, would it be true that a staff member could not direct other people on behalf of a member?

Clerk of the House: That is something that has to be looked at. It is also very new and there are very few contracts that exist. The third party in the House has very specific guidelines to their staff, and it has never been tested in the courts. It has never been tested as a question of privilege, to my knowledge. It has been raised a few times in Ottawa, but it was on a matter that was not found to be prima facie, so it was never tested to see whether a member can rightfully claim this.

All I am saying is that a good argument can be made by a member, saying: "Listen, my staff person, who had very important duties to accomplish this morning, was stopped by some hoodlums on the street here who hit that person and stopped her or him from coming to work. That had these following consequences upon my daily work and therefore I claim the privilege."

But the privilege is still the member's and there is no question that a member can delegate. As you said very rightfully, he cannot send his staff person in to deliver a speech for him, and you could not send a staff member to register a vote for you in a committee or in the House. There is no delegation there. It is only a question of help. This is help hired in order to do your work and if somehow that help is stopped in some way, by today's standards a member could claim it is a need. You need these people in order to function, therefore, your privileges have been--

Mr. Turner: Just one further step, if I may, Mr. Chairman. In your opinion is it fair to suggest that a staff member could be held in jeopardy by acting on the instructions of a member in carrying out their duties?

Clerk of the House: In my opinion, no. It has nothing to do with the privilege. The privilege remains with the member.

Mr. Warner: I have a couple of questions. First, I agree with the clerk's sentiment about the potential of punishment of whoever has done what wrongs. Maybe whoever it is would have to sit and listen to the tapes of all Mr. Callahan's speeches. That would be fit punishment and the person would

never commit a crime again.

Mr. Callahan: --??conspiracy. You sound like Ed Philip. I thought only Ed did that to me.

Mr. Martel: (Inaudible).

Mr. Warner: I wondered about, there is a section in the briefing notes that goes from pages six to nine on intimidation or obstruction. Part of the notion here is that this issue is heightened by the concern expressed by Mr. Gillies, and perhaps by others, that because the serving of the writ was with respect to a matter that was connected to the work which he was doing in committee, it was an attempt to intimidate him, to not complete his work

M-1125-1 follows



(Mr. Warner)

...serving of the writ was with respect to a matter connected to the work he was doing in the committee, that it was an attempt to intimidate him to not complete his work. That is a suggestion. In one respect, now I am wondering if that is a bit of a side road for us. I am dealing with civil matters obviously. I am wondering how important it is to link the civil matter to which the suit has been issued to what the person is doing in the committee. For example, to use an extreme case, suppose I am sitting on a committee doing regular committee business dealing with members' services. We are discussing services to members, and someone comes in and serves me with a writ on a totally unrelated matter. Is that still not an invasion of the privilege which I enjoy, even though the matter which is the subject of the writ is not connected in any way with the work I am doing in the committee?

Clerk of the House: There are a few things to set straight here. First of all, it is very clear from precedents throughout this country that members may be sued at any time. There is no doubt about that. It has nothing to do with a session being in or out or between sessions. A member may be sued. So therefore, yes, you can be sued.

Now we go to paragraph 45(1)2 of the Legislative Assembly Act which, to my knowledge, a similar section does not exist in Canada in other Legislatures. When you compare paragraph 45 (1)2 and section 38, I believe that, in my opinion, the term "molestation" in section 38 should not be viewed as psychological molestation. Section 38 is there for physical detention, arrest and molestation. But when you get to paragraph 45(1)2 and you talk about attempt at intimidation, again, this is where the work of this committee gets involved, if you will be faced with it or not.

But to get back to your example of sitting in a committee room and being served with a writ that has nothing to do with the matter in front of you or that the committee has to face, you could not, in my opinion, say that this was intimidation, because it is very clear that a member can be sued. What is wrong in that case is that the service is happening in the precincts, as we went into before. In my opinion, I repeat, that is wrong. The Speaker should have authority over who is served in the precincts.

When you get down to paragraph 45(1)2 and deal with the words "attempting to intimidate," then this is very dicey ground. I do not think you will find any precedents. You will have to use your knowledge of the facts which are before you and you can fall back on basic common law which has a certain implication in the law of privilege in the sense that courts have looked at malice aforethought. Is this done with real intent to intimidate or not? The fact that a member is being sued cannot be viewed automatically as intimidation. What you will have to find is whether this is an attempt.

Mr. Warner: I have a question.

Clerk of the House: Yes.

Mr. Warner: I want to make sure that I have this clear. There are essentially two possible scenarios, just reading from the material. One is that the company serving the writ did so on their own initiative. They decided when and how they were going to serve the writ. That one ?? said they had violated the privileges of the House, not the member per se, but of the House by serving that writ in the manner in which they did. It is possible...

1130 B/lows



(Mr. Warner)

...they had violated the privileges of the House, not the member per se but of the House by serving that writ in the manner in which they did, and that it is further possible that under the circumstances there was a clear attempt to intimidate the member on whom they were serving the writ from performing his function because of the specific nature of the work and related to the writ.

1130

On the other hand, if it is possible to find that the member invited the person in to serve the writ at that particular time but that he does not have nor does any other member have the right to give away privilege, that it is still a breach of the privilege of the House, but that the member had abused the privilege.

In either event, the committee has the right to determine a punishment, either against the member or against the legal firm. Is that correct?

Clerk of the House: If you are asking me whether it is possible for a member to commit a contempt of the House, the answer is yes.

Mr. Chairman: One small point, and my colleague went through this once before. The committee, per se, does not have any rights to establish any punishments; we can only recommend to the Legislature, and it would be the assembly that would make the decision to take action.

Mr. Warner: Or the Speaker.

Mr. Chairman: No.

Mr. Warner: No, not the Speaker.

Mr. Chairman: No.

Mr. Warner: It has to be the House.

Mr. Chairman: Yes.

Mr. Warner: By a vote in the House.

Mr. Chairman: Yes.

Mr. Warner: Okay.

Mr. Chairman: Mr. Morin.

Mr. Morin: M. DesRosiers, you said that a member cannot waive his privilege. For instance, if somebody was to issue a writ to me, I could not tell him, "Look, don't worry, issue it to me even if I am at a meeting." I cannot do that, correct?

Clerk of the House: You cannot because the privilege that you are talking about is a privilege that is not attached to the member, but which is attached to the institution.

Mr. Morin: Okay. Therefore, as a member, I could deliberately set a trap.

Clerk of the House: As I go back to what I said at the beginning here, I am not here to talk about the intricacies of this thing.

Mr. Morin: No, no, no, no, I am just asking you. I could do that.

Clerk of the House: Hypothetically, I will answer you the same way I answered Mr. Warner. Yes, if you are asking me if a member can be found in contempt of the House. Can a member breach the privileges of the institution? The answer is yes.

Mr. Morin: And if I was found guilty, of that type of a crime?

Clerk of the House: Then the House would administer the punishment?

Mr. Morin: Then it would be left to the House to punish me.

Clerk of the House: Yes.

Mr. Martel: Off with your head.

Mr. Callahan: That is old hat.

It is not an ....??, is it?

Mr. Morin: Just one supplementary.

Mr. Chairman: Oh, okay.

Mr. Morin: Don't you feel it would be my responsibility if I was told that I was to be served a writ ?? . What you are about to do is not correct. You cannot do that.

Clerk of the House: I will not get into the responsibilities, but I will say that, in my opinion, it is a contempt of the House to serve a writ on the precincts.

Mr. Morin: So it is left up to the person who serves the writ to do his homework and know the law.

Clerk of the House: Ignorance of the law is never an excuse.

Mr. Morin: No, but it is not the responsibility of the member to tell him that you should not do that because you are going to be, you know.

Clerk of the House: Well.

Mr. Morin: Even though you are right, you can sue me.

Mr. Chairman: Maybe I could assist a little bit, having had some personal experience in this regard, and I take it from most of the other members that I know who have ever been served with these kinds of documents, I think we have all said to the person serving the documents: "Listen, you are not supposed to do that here. Do you know anything about parliamentary

privilege or the precincts of the House or the traditions of parliament?" They never do, and I think that once you have ??got the initial remarks out of the way, it is apparent to you that this is a pretty silly thing to have. This guy is paid to serve you with the document. That is what he knows. That is what he does.

If you have something that you think is worthy of the House's consideration, you will go into the chamber and raise the matter of privilege, but it would not do you any good to stand in the hall and argue with some process service. So, I think I understand your line of questioning and I think there is something in there that we will have to consider, but I would tend to agree that a person is going to serve the documents whether you want to have a half hour discussion about parliamentary privilege or not. He is paid there to go to you and hand you pieces of paper. That is what he does for a living. He does not care about the argument. I would suggest that most members who have gone through this rather unfortunate experience have, in fact, tried to explain to the person serving the papers that he should not do this, but it has like no effect. They are not interested in it, and...  
M-1135-1 follows.



(Mr. Chairman)

...does not care about the argument. I would suggest that most members who have gone through this rather unfortunate experience have in fact tried to explain to the person serving the papers that he should not do this, but it has no effect. They are not interested in it.

In the end, because it will be the House that decides, for example, in the little scenario that you raised, if a member decided to lay a trap, to suck somebody into some great political error, the risk the member runs is that he does not have any privilege on his own. He knows the House will make a determination. It will go before a committee. If he did something like that, he would get lots of publicity, that is true, but surely when the committee investigated the matter and found out that he had in fact set this thing up, I doubt very much he would do that if he thought it through beforehand. He would come out looking like both a fool and a buffoon.

Mr. Callahan: For the record, Mr. Chairman, the clerk just nodded his head in total agreement with what you said.

Mr. Chairman: He wants to keep his job.

Mr. Sterling: Surely there is no duty on an MPP who is being sued as a defendant to help the plaintiff perfect his process. No citizen in our province has that kind of responsibility, regardless of whether he is an MPP or not. I do not think there is any duty on an MPP to tell a guy that he is serving right or wrong or whatever; it is up to the plaintiff to decide whether he is doing that.

The other thing we should never lose sight of is whether or not the service is perfected properly in the first instance, there is nothing to prevent somebody from doing it the second time in a proper manner. Whatever deliberations go on, ??Mr. Fleishman may choose to serve Mr. Gillies outside some other way.

Mr. Martel: I listened carefully to the member for Brampton. You could violate the privileges of the best of the members--a member--and I think the clerk has confirmed that because my name was down many bodies ago. I am not sure what one says about the member. I think he takes it on himself that if he were to plan that scenario, it would be like committing political suicide.

The other point is in that serving of papers, did we not learn in Ottawa on Friday that there are people who know that? In Ottawa they serve papers on the corner of the street, do they not? Once they have left the confines of Parliament Hill, there is a street corner where the bailiff, or whoever is serving the papers, waits for you to serve the papers. It is not an unknown practice. It is only in the Ontario Legislature that people think they can play little games. In Ottawa, first of all, they cannot get by the door, but second, everyone in Ottawa knows where to serve the papers. It is on the corner of the street. It is like soliciting.

Mr. Chairman: You are a lot more experienced at this kind of thing than we are.

Mr. Martel: Yes, that is right.

Mr. Sterling: One thing we have to consider is that it was not just Mr. Gillies who may or may not have been intimidated by that particular action that occurred in that committee. There are other members of the committee who felt, at that time, that they had been in a conundrum, expecting later that morning to talk about a particular matter dealing with the plaintiff, as to whether they may be next in line. It was Mr. Gillies and his assistant; it was members of the committee at that point; and then it was members of the Legislature in total. There are three factors involved.

Mr. Callahan: I do not concur with Mr. Sterling's comment in that regard. I would have felt that if he went outside, if that is what he is saying, and said something to the press, they would probably say, "Well, how do you read it?" I do not think I would say I was intimidated or it was a direct attempt by this person to intimidate. I think he had that protection. I do not agree with Mr. Sterling.

Mr. Bossy: There are several comments that have touched on answering my question, but I come back to the clerk. Concerning the two privileges, the coporation and the member's privilege, they seem to be, in my mind, fairly distinct, different privileges, even though, in this case...

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(Mr. Bossy)

..privileges, the corporation privilege and the member's privilege. They seem to be, in my mind, fairly distinct different privileges, even though in this case, we are dealing with a case that potentially infringes upon ?? In our deliberations, we must also take into account, then, whether the one privilege, or the accusation--those made towards a person--to become a member's privilege being affected.

1140

When you investigate further, and this goes beyond really the corporate privilege--but that person could have--I hate to use this word--aided and abetted the infringement and causing a privilege on the corporation. In our deliberations and questions to the witnesses, because that becomes really the defense that I have--the privilege of the member, really, whether that person's privilege has been affected, will be determined on the basis of the witnesses that we must interview there.

The other privilege can be determined without witness practically, except--and you have made the comments here--if this is a precinct--if we as committees are an extension of the Legislature, and if we are immune within that system, then we have to admit that whoever came in here and served the writ or whatever it was on these premises, that was really a no-no to come into, so that it would determine nearly the one privilege. The main privilege is the member's privilege here, and we have to find out whether he helped to break the other privilege or encourage or whatever. I have to surmise, because I am looking at two distinct privileges here, and we must keep that in mind at all times.

Mr. Chairman: Any further questions for the Clerk of the House or for the Speaker? Any closing remarks that you wanted to make?

I want to say one other thing before we adjourn for the morning. It has occurred to me that there are members sitting on this committee now who are also on the public accounts committee and were part of the process in passing the motion. Someone may claim that there is a bit of a conflict of interest there, but I would refer you to previous instances and rulings. The chair has no power to determine who sits on a committee, and I cannot--even though someone might question whether that is appropriate or not for someone who was in fact part of the debate in that morning of public accounts, and participated and voted on that occasion--I would have no ability to limit your participation in this committee.

Members have the right to attend committees; the parties will select their own membership. I have asked you to try to keep the substitution down, just to assist in the hearing of evidence. I am going to remind you once again that you have set a rather busy schedule for hearing witnesses. You would assist us a good deal if you would try to get your questioning over with, not quickly, but succinctly. Any further business this morning? We stand adjourned until 2 o'clock; we have two witnesses this afternoon.

The committee adjourned at 11:43 a. m.





## LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON LEGISLATIVE ASSEMBLY

23 1987  
Tuesday, February 17, 1987

The committee resumed at 2:07 p.m. in room 151.

MEMBERS' PRIVILEGES  
(continued)

Mr. Chairman: We are ready to resume. There are two witnesses appearing before the committee, Mr. Gillies and Ms. Artmont. The first one is Mr. Gillies. As I said this morning we do not swear in members. We will swear in everybody else. Members are sworn in at the time they take their office. They swear an oath at that time so they are bound by that oath during the course of that parliament.

The process for the afternoon will be, as we have used on other occasions, we will invite the witness to make whatever kind of a statement he or she wants to make and then members will be free to ask any questions that they see fit.

Mr. Gillies: I do not propose to make an opening statement. I am at the disposal of the committee for any questions you may have.

Mr. Mancini: In view of the fact, Mr. Gillies, that you do not want to make an opening statement, for the benefit of the members who were not at the public accounts committee the morning that the alleged breach of privilege took place, I understand then we all have immense briefing documents, could you in your own words take us through what exactly happened? Could we start possibly from the time that you received a letter some time in November I believe, that you would be sued by some individuals. Could you take us from the point that you received that letter up until the present?

Mr. Gillies: Surely, Mr. Mancini. I raised questions in the House on the question of the Huang and Danczkay loan at 350 Queen Street West, on October 27, 28 and 29 of October. In the following week, I believe it would have been the morning of November 6, I gave notice that I would be bringing a motion before the public accounts committee that the committee undertake an inquiry into that loan and the circumstances surrounding its award by the Ministry of Housing.

The day previous to my bringing in that notice of motion to public accounts, on Wednesday, November 5, the law firm of Stikeman, Elliott, posted a notice in the press gallery indicating that Ms. Artmont and myself were going to be presented with a letter of intent regarding a liable action, on that same day. In fact, my recollection is that it was indeed later that day that I was entering the House, I believe for question period, or it may have been just after question period, I think it was after--  
M-1410-1 follows

(Mr. Gillies)

--In fact, my recollection is that it was indeed later that day that I was entering the House, I believe for question period or it may have been just after question period, Mr. Mancini, I think it was after, that a lady approached me and said that she recognized me and handed me the letter. That was the letter of intent at which time Mr. Fleischmann's solicitors indicated that if a retraction of some of the points made surrounding the questions in the House were not retracted that they would be proceeding with a legal action

1410

Mr. Callahan: Mr. Chairman, I wonder if Mr. Gillies has that letter if each of the members of the committee could have a copy of that letter that was served on him.

Mr. Gillies: I am sorry, I do not have it with me but I would be pleased to provide it.

Mr. Callahan: Could that be provided today?

Mr. Gillies: I am sure it could.

Mr. Callahan: Perhaps that could be arranged.

Mr. Gillies: That was on November 5.

Mr. Sterling: Before you go on, just some clarification on these events. When did you serve notice of motion about dealing with the Huang and Danczkay affair on the House?

Mr. Gillies: The notice of motion was voted on, on November 6.

Mr. Sterling: So that was after the--.

Mr. Gillies: Yes, but I must confess I should check my records. I did not realize that the committee would be focusing on this point and I apologize. The normal procedure, as members of the public accounts committee would know is that we normally give notice of a motion one week in advance. I would have to check back into my records to see if in fact I brought in the notice of motion on October 30. That would appear to be the case, if indeed we voted on it on November 6.

Mr. Callahan: Unless unanimous consent.

Mr. Gillies: Unless unanimous consent were given and I do not believe that was the case, because in fact the motion itself was not agreed to unanimously. It was a six to four vote with the Liberal members voting against it, so I doubt there was unanimous consent.

Mr. Sterling: Maybe you could check that for us, I would appreciate it.

Mr. Gillies: Certainly.

Mr. Chairman: In our committee, I know that in other committees it functions a little differently but we do not really use supplementaries. I would prefer really that members ask their questions as succinctly as they



can, give the witness an opportunity to answer the question and I have a list, others will get on.

Mr. Sterling: I was just trying to get through the process of time as to what happened.

Mr. Chairman: Yes, I understand that, but Mr. Mancini has the floor.

Mr. Mancini: Mr. Sterling, I do not think we need you to tell us, Mr. Gillies can tell us what happened.

Mr. Sterling: I am just asking questions.

Mr. Chairman: Yes, I know exactly what you are doing.

Mr. Sterling: I will go back over it again.

Mr. Chairman: Yes, you probably will.

Mr. Gillies: Thank you, Mr. Chairman. The motion was passed in the public accounts committee on a six to four vote. We really did not hear any more in terms of follow up to the letter of intent that I had received from Stikeman, Elliott through the month of November or December. In fact, I recall saying to Ms. Artmont, I think it was perhaps just after the Christmas holidays, it sort of came into my mind. I remember asking her one day, "Gee, I wonder if we will ever hear anything more about that?" After two months I must say my assumption was that we would not.

The public accounts committee then met early in January to set up a schedule for the business the committee would be looking at in the coming weeks. The committee schedule was rearranged at one point to accommodate the Graham software matter in terms of Ontario Development Corp. request to schedule that matter. So, it was finally decided that the Huang and Danczkay matter would come before the public accounts committee commencing on January 22.

That brings us then to the day of the actual incident. I will tell you exactly what happened that whole day, Mr. Mancini. I think you want not just what happened in the room but what led to it.

Mr. Mancini: I think we may have left a void here but I will let you finish and I may want to come back to it because you may cover it.

Mr. Gillies: Okay. The morning of January 22, which was the Thursday morning that the public accounts committee meeting was going to meet on the Huang and Danczkay matter, I phoned. I had a meeting at 9 a.m. which was our caucus question period committee and then public accounts committee was starting at 10 a.m. I phoned Ms. Artmont from my apartment here at our office and asked her if she would take the Huang and Danczkay file to the public accounts committee because I would not have a chance to get to the office with the--

M-1415-1 follows

(Mr. Gillies)

I phoned Ms. Artmont from my apartment here at our office and asked her if she would take the Huang and Danczkay file to the standing committee on public accounts as I would not have a chance to get to the office with the two meetings coming up.

At that time, Ms. Artmont said to me that she had forgotten to tell me earlier in the week that somebody had phoned saying they were representing Stikeman, Elliott and they wanted to give me a hand-delivered letter some time this week.

Mr. Mancini: I am sorry. Could you repeat that one more time?

Mr. Gillies: Sure. She said that somebody had phone, saying they were from Stikeman, Elliott, that they wanted to give me a hand-delivered letter and they wanted to do it some time this week.

Mr. Mancini: That was the Thursday morning, the same morning of the standing committee on public accounts hearing?

Mr. Gillies: Yes, it was and this happened around nine a.m.--about nine, quarter to nine.

Mr. Mancini: Could we elaborate a little bit on the conversation you had with your executive assistant. I am assuming--and please correct me if I am wrong--she is giving you a list of things she feels should be drawn to your attention.

Mr. Gillies: Yes.

Mr. Mancini: One of the things is this telephone conversation she has had with a firm who is going to be give you what again, Mr. Gillies?

Mr. Gillies: I believe she said a hand-delivered letter.

Mr. Mancini: But you are not absolutely sure. You are just trying to recollect what she said.

Mr. Gillies: That is my recollection. Yes, Mr. Mancini, the conversation would have been along the lines of, "Could you bring the file over to the committee?", "Yes, I would." At that point, she would have been at the staff meeting for our question period committee. I believe she told me they wanted me to ask a question that day, what was going on that afternoon, sort of a general, as you say, what was going on that day, in the course of which she said these people wanted to give me a letter and as they wanted to do it this week, it would probably be Thursday or Friday they wanted to give me the letter if they wanted to meet that deadline.

I asked her if she knew what it was regarding and she said no, but we mused at the time as to whether, as we recalled, Stikeman, Elliott was Mr. Fleischmann's law firm and as to whether it was apropos the same matter. That was the way it was left. So, I went--

Mr. Mancini: What would have led you to speculate that?



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Mr. Gillies: Simply because I recalled Stikeman, Elliott was the law firm for this particular gentleman.

Mr. Mancini: And she gave you no further information over such a serious matter where you may be being sued? You did not pursue it?

Mr. Gillies: We had no knowledge. I had no knowledge of what the matter was about and there did not seem to be any point at that point speculating.

Mr. Mancini: But we find out subsequently your assistant knew a great deal more than what you are telling us she told you at the time. I am having some difficulty--and I know you have a very busy schedule, Mr. Gillies--but I do know you pay attention to detail and with something as important as you yourself being sued and with the publicity it had received earlier and the fact you had received a letter in November saying something may be happening, you mused after the Christmas holidays, "Geez, is it not interesting nothing happened."

Then the morning before the standing committee on public accounts when you were to discuss the very same matter, you have a short conversation with your assistant and it is almost as if the conversation never took place because of the lack of detail you exchanged with each other.

Mr. Gillies: I guess you have to appreciate the kind of atmosphere we have been operating in. As you would know, I have exposed a number of scandals concerning the government in the last number of months.

Mr. Mancini: Yes, I know that.

Mr. Gillies: I just want to reply so you know the nature of the conversation. Every week in my office, partly because of the matters I have been raising in the House, we have envelopes being hand-delivered, coming under the door, we have conversations with people who may or may not want to leave their names.

As you would know from opposition days, Mr. Mancini, if you acquire a bit of a reputation for exposing corruption or matters surrounding the government, everybody comes out of the woodwork with one thing or another and I have to say--

Mr. Mancini: Is ?? helping you out?

Mr. Gillies: I have to say that Ms. Artmont mentioning a letter was going to be delivered to us did not register on me particularly as being anything more or less than any number of other matters that have come before us in recent days.

Mr. Mancini: But the file indicates she quite a lengthy discussion with individuals I will refer to as the servers, the people who were going to be serving you these particular legal documents. The file indicates your--

M1420 follows.



(Mr. Mancini)

...indicates that she had quite a lengthy discussion with individuals whom I will refer to as the servers, the people who were going to be serving you with these particular legal documents. The file indicates your executive assistant had a very lengthy discussion--it appears anyway--wherein she was asked for your schedule. That is something I would like to ask for, Mr. Chairman, with the concurrence of the committee--Mr. Gillies's schedule for that particular week--if it is all right with you, Mr. Gillies.

1420

Mr. Gillies: Certainly.

Mr. Mancini: And also if it is okay with you, Mr. Gillies, if you or your staff keep a log of your phone calls, I would like to have the committee see that. In my office, we do keep a log of incoming calls.

Mr. Gillies: I do not believe we do, Mr. Mancini. There would be a record of any call that had to be responded to, but in terms of noting the details of every call that comes in, I do not believe we do that.

Mr. Mancini: Can we assume that Ms. Artmont would have made some kind of notation in her log that a call came in from these legal servers who were asking about how they could serve you legal documents?

Mr. Gillies: I do not know. You would have to ask her, and indeed, you ask about her conversation with the gentleman from Stikeman Elliott. Again, you would have to ask her. All I can really recount to you is the conversation I had with Ms. Artmont because that is all I have knowledge of first hand.

Mr. Mancini: Which is very brief. You will admit to the committee that this was an extremely brief conversation, even though the issue itself is of vital importance.

Mr. Gillies: Sure. I was in a hurry. I was leaving my apartment to get to a nine o'clock meeting.

Mr. Mancini: I understand that.

Mr. Gillies: This came up as one of a list of items that we discussed very quickly on the phone.

Mr. Mancini: So over the telephone, you and your executive assistant came to a conclusion that, because of these calls that she had received, someone or some person acting on behalf of lawyers or whomever, I do not know, might be contacting you Thursday or Friday. You were left with that assumption?

Mr. Gillies: Yes, I was. In view of the fact that they had wanted to apparently give me this letter that week-- Monday I was on a tour day in Ottawa. I drove back from Ottawa to Toronto on the Tuesday morning. The week was getting on, so if they wanted to, in fact, give me a letter--

Mr. Mancini: What does Monday and Tuesday have to do with it when you did not know about it until Thursday morning?

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Mr. Gillies: I am just assuming that, if they wanted to give me this letter this particular week, the week was running out and they would want to give it to me. That is all.

Mr. Mancini: But you were certain at the time that you were to have received this letter--

Mr. Gillies: No, I was not certain of anything.

Mr. Mancini: --Thursday or Friday?

Mr. Gillies: All I knew was that somebody had phoned saying that they wanted to know where to find me in case they wanted to give me a letter.

Mr. Mancini: And you are assuming it was that week. But Ms. Artmont did not say that. What are you telling us, Mr. Gillies?

Mr. Gillies: No, no. She said that they had indicated they wanted to do it that week.

Mr. Mancini: Okay.

Mr. Gillies: Anyway, I went to the question period committee meeting which is up in our leader's boardroom and then I came down here for the meeting of the standing committee on public accounts. I was sitting where Mr. Sterling is now and I forget the precise time, but I got up from the committee table at one point to go over here and get a cup of coffee, at which time, Ms. Artmont caught my eye and sort of beckoned for me to go to the back of the room, which I did.

At the back of the room, a gentleman was sitting who asked me if, in fact, I was Mr. Gillies. I said that I was. He said that he had a document to serve to me and handed me this writ. I very quickly looked at the covering page of the document which, as it turned out, I think, is nine or 10 pages in length. I believe I responded to the man that I was not sure whether I should accept the document--it appeared to be a suit, a civil matter--and I was not sure whether, in fact, I should accept such a document because of a vague awareness that we all have of the provisions of the Legislative Assembly Act.

There was sort of a stand off. The fellow looked a little awkward and was not sure what he should do and quite frankly, I was not quite sure what I should do. I believe I kind of looked at Ms. Artmont and she suggested that: "Well, you have the papers in your hand now. Why not hang on to them until some sort of determination is made as to whether it was appropriate that they be served and whether, in fact, they were legally served or not."

Then I kept them in my possession. I went back to the committee table over here and on a point of privilege and order...

M-1425 follows



(Mr. Gillies)

...the fact ~~they~~ were legally served or not. I did then keep them in my possession. I went back to the committee table over here and on a point of privilege and order--

Mr. Turner: --a point of privilege.

Mr. Gillies: The former Speaker, Mr. Turner, will know I never got that right in six years, but I believe I called it to the committee chairman's attention as a point of privilege and indicated to the committee that it appeared I had been served with a writ. I believe initially, because I did not read it very carefully, that I thought it was in the amount of \$1 million. It turned out to be \$2.7 million.

I was particularly concerned because the writ was surrounding the matter that the committee was just beginning to consider in hearings that day. I believe I raised the question as to whether this was a question of harassment, which I continue to believe it is and asked for some guidance from the committee as to what we should do about this.

There then proceeded, and this will all be available to you in Hansard, Mr. Mancini, a very lengthy discussion among committee members at which time a fair amount of anger and concern was expressed about this matter and a decision was made to pass motions subsequently referring the matter to the Speaker's attention and then to this committee. Later that day, I rose on a point of privilege, just prior to question period in the House to bring the matter to the Speaker's attention and indeed the Speaker indicated that he was aware of the motions that were pending from the public accounts committee and that the matter would be debated subsequent to question period.

That really takes us up to the end of that day, Mr. Mancini. I could try to answer any other questions you have beyond that point of time period.

Mr. Mancini: I think that is a fair amount of information as to the general situation and I thank you for that, Mr. Gillies. I still have a lot of trouble understanding the brevity of your conversation with your executive assistant on that Thursday morning and also your explanation today as to what was said between the two of you.

One of the reasons I am having difficulties is that I am looking at a Globe and Mail article dated January 23, that I think all members have in their files, where there is a very complementary photo of yourself and Miss Artmont consulting each other after the fact, I guess. There is a direct quote in the new article and it reads: "Ms. Artmont told reporters last night," meaning Thursday night, since this is a Friday edition, "that she had told Mr. Gillies, 'I don't think they'll be stupid enough to come into the committee. Obviously, I underestimated them.'"

She is quoted here, and as far as I know there have been no letters to the editor or any demand on her part to inform the public or to inform the writer that she was misquoted, so I have to assume this is correct and I do assume it is correct. She is telling the Globe and Mail reporter that she had told you something very significant that you, evidently, just a few moments ago, had forgotten to tell this committee.



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She said, "I don't think they'll be stupid enough to come into this committee. Obviously, I underestimated them," and she said that she told you that, Mr. Gillies. What kind of conversation led to that particular comment to being made by Ms. Artmont? How did that come about?

Mr. Gillies: All I can tell you are the facts as I recall them, Mr. Mancini. We had a very brief phone conversation. This matter was raised by Ms. Artmont as one of a number of matters and it was basically as I told you. She understood they were going to be looking to give me a letter this particular week sometime. I did in fact ask her if she thought it was anything to do with the ??Fleishman matter. She said she did not know and that was about it.

Mr. Mancini: We know that you do not handle your work in a sloppy way, as far as...

1430 follows

(Mr. Gillies)

...I did ask her if she thought it was anything to do with the Fleischmann matter. She said she did not know and that was about it.

1430

Mr. Mancini: We know that you do not handle your work in a sloppy way, as far as details are concerned. We also know you like to have things as accurate as possible, from your particular point of view. That is the problem I am having with your testimony, the fact that we have an issue here which was of such a concern to you that, first, you raised it in the Legislature and second, it caused a letter to be given to you in November which said you would be sued, just in case you forgot the question you had asked in the Legislature. That was a good reminder.

You remind yourselves, shortly after the Christmas holidays, that, "Jeez, isn't it funny that there is nothing happening?" Then you have a conversation with your executive assistant that should have at least twigged your memory. As far as I know you, Mr. Gillies, it should have twigged your memory. Then you explained to the committee the conversation you had but you forgot to tell us that your executive assistant said something as significant as what I have already quoted two or three times.

Mr. Gillies: If Ms. Artmont said that, and I cannot recall--

Mr. Mancini: You cannot recall if she said that?

Mr. Gillies: I probably would not have attached--

Mr. Mancini: Excuse me, Mr. Gillies, you cannot recall that Ms. Artmont said that?

Mr. Gillies: No, and indeed, if she did I do not think I would have attached a great deal of importance to it. I might remind you, Mr. Mancini, the Legislative Assembly Act does not speak so much to place as it does to time. I would have thought your concern would have been at the major thrust of the issue, which is indeed the serving of civil papers to a member of the assembly during the sitting of the assembly, or for the statutory period of time before or after. Frankly, Mr. Mancini, in terms of the harassment or the inappropriateness of this law firm's actions, I would see them to be of equal gravity, whether the papers were presented here in the committee room, the hallway, my office or my apartment.

To me, the important thing here and the fact that caused me a great deal of concern was the time frame, that at the same time our committee was going to concern itself with this matter, the people involved took the action they did. I guess all I am saying is the issue would not have registered with me as particularly important as to where this was going to take place. If Ms. Artmont says she mentioned their coming to the committee or not coming to the committee, she well may have. I just do not recall.

Mr. Mancini: Before I continue with my questions I just want you to know and to be certain that I am just as concerned as you are about anybody serving papers on members of the Legislature. I sat on one of the committees that heard Mr. Reville's case. You can check the record as to how I voted on

that particular matter.

But the problems we have here with your particular case is that your description and your assistant's description of what has happened are almost exactly opposite to the description given in these affidavits. What your assistant said in her affidavit--and I cannot find it right now--but basically, what she said in her affidavit was that: "These gentlemen had called. They wanted your schedule." She sent them your schedule and basically, that was it. They had some other ancillary conversations as to: "How would I know you? How would you know me?" and all that kind of stuff.

But the main point is the people who signed a different affidavit, the other side of the story, are saying: "Well, we contacted Mr. Gillies's office. His assistant advised that we could do this. His assistant advised that Mr. Gillies would be there. She advised that we would be there." In no portion of their affidavit was it stated that she, in any way, did anything to discourage what they had in mind. They say they explained in detail what they had in mind.

Mr. Gillies: I cannot help you--

Mr. Mancini: That is the difficulty this committee is faced with.

Mr. Chairman: I am going to intervene here for just a second and I am going to remind members that today is not the day to argue with the witness

M-1435-1 follows



(Mr. Gillies)

...cannot help you.

Mr. Mancini: That is the difficulty that this committee is faced with.

Mr. Chairman: I am going to intervene here for just a second and remind members that today is not the day to argue with the witness. He will be around and you can argue with him for a long time on other days. Today is the day to ask him questions and to accept his answers. This is just a gentle reminder for now, to ask questions and take answers. You can argue later on.

Mr. Gillies: I guess all I can say again, Mr. Mancini, is that I have no knowledge of the conversations between Miss Artmont and the other people. All I can really tell you in the committee is what I knew and all I knew as of that Thursday morning was that someone from Stikeman, Elliot phoned and said they were going to be looking for me with a letter.

Mr. Mancini: Does your assistant usually refer to people as stupid?

Mr. Gillies: Quite often, yes.

Mr. Chairman: Do not name names.

Mr. Gillies: I do not, Mr. Mancini. I hold everybody in the highest regard. Lyn is much harder on people than I am.

Mr. Mancini: I thought that word might have been a special trigger for you, Mr. Gillies.

Mr. Martel: I have one area of concern. I am trying to get it in my head what is going on. You knew of an impending threat of a lawsuit for some time. What worries me, and I cannot get my head around it, is that on the 19th you also knew the legal firm for Mr. Fleischmann.

Mr. Gillies: No, I did not; that is the point.

Mr. Martel: On the 19th, though, a phone call comes with respect to this matter and the possibility of presenting a letter to you. What I cannot get my head around is that for three and a half days you are not immediately contacted, warned that something is about to happen, the precautions are not taken in the event that something might happen. That is what I cannot get my head around.

If I were in the same predicament and someone phoned my office and it was a law firm and I had been threatened with a lawsuit, somebody would have said, "Look, we had better talk to the Speaker about this or we better talk to our leader about this or our House leader. In the event that someone does attempt to serve a letter Thursday morning, we are in a position to prevent it from occurring." That is really the thing that I am having difficulty with.

I look at the two sets of affidavits. As I said, you would need sodium ??penethol to get to what is really the truth of the matter. For us to discern if this person is telling the truth or that person is telling the truth, can be very difficult. What worries me most is why, under the conditions, under

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the threat, and with a phone call from the law firm, that no precaution was taken to avoid any embarrassment to you at any time during the week or to tell you what your rights were.

That seems to me a real failing. Something fell apart. Maybe you can tell me why no one warned you much earlier, no one made any provisions for you to know what your rights were under the circumstance. Forgetting what the law firm did, we will deal with them in a little while, but in your own defence, somebody fell down on the job and fell down pretty badly.

Mr. Gillies: There are a couple of points, Mr. Martel. First of all, it was a very hectic week. We all have them. I was on the road in Ottawa all day Monday I think at about four different events. Susan Fish and I were both up there doing a bit of a tour day. I drove back Tuesday morning in very adverse weather conditions. You will recall that was a big storm week, too. Tuesday I got back, right into the House. I did not even have time to go to my office; I was right into the House. I think somebody handed me a question to ask on the way by. It was just one of those weeks.

I have to assume that it slipped Miss Artmont's mind to bring this to my attention, but I would also like to put that in context. As I indicated to Mr. Mancini, the last couple of months particularly, having raised the Exploracom matter, Graham Software, Wyda and Mrs. Caplan's problems, Huang and Danczkay and all these other things, our office has been a bit of a pressure cooker, quite honestly. We have letters and envelopes coming and going from all sorts of sources.

We have people phoning who just have to meet me about this that or the other scandal that they have...

1440 follows

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(Mr. Gillies)

...Mr. Mancini; the last couple of months particularly, having raised the Exploracom matter, the Graham Software, Wyda and Mrs problems, and Haung and Danczkay and all these other things, our office has been a bit of a pressure cooker, quite honestly. We have letters in envelopes coming and going from all sorts of sources. We have people phoning, who just have to meet me about this, that or the other scandal that they have uncovered that nine times out of 10 you check it out and there is nothing there. It has just been a very unusual kind of working atmosphere that we have been under, and I might say in the last three or four months, Mr. Martel, we have had letters delivered to us from lawyers simply because they wanted to get some information into our hands in quick order or something of that nature.

1440

Just putting it in all that context, I think it was a combination of those two things: a rather pressured and unusual work atmosphere in the last couple of months, plus, I think, it just slipped my mind, partly probably because I was out of the city for a part of that week.

Mr. Martel: So you are saying that you were not aware, or your staff was not aware, that Stikeman and Elliott were representing Fleischmann.

Mr. Gillies: No. As I said to Mr. Mancini, my recollection was that they were because, of course, the letter of intent that I received on November 5, 6 or whatever it was, was from Stikeman, Elliott, and I remmebered that so--

Mr. Martel: But your assistant did not recall. What is worrisome for me is on a Monday you get a phone call from the lawyer who is representing Fleischmann and they are going to serve you with a letter some time during the week and no one looks at any way to protect you in any way from this. I mean I do not if there are disucssions among you, if it was drawn to the attention, let us say, of your leader, your House leader or your whip or anyone else that these birds who threatened to sue you, in fact, have now made contact with you on Monday 19 and by the 22nd nothing has twigged anyone to the possibility or no one has ever even taken steps to tell you what your rights were and there are four days there. I have difficulty understanding why no one, absolutely no one, twigged to what might be going on.

Mr. Gillies: I guess, of course, we have the advantage of hindsight now, inasmuch as we know now that the letter was regarding the Fleischmann matter. Really, Stikeman, Elliott is one of the biggest law firms in town. It could have been about a number of things.

Mr. Callahan: Did you figure it was an invitation?

Mr. Gillies: Well, I do not know, Mr. Callahan, but recently, I will give an example, we all received hand-delivered letters. I think every member of the assembly received a hand-delivered letter from another law firm in the last several week expressing concerns about Bill 166, and I believe another letter came around to us about the lottery sales bill. I guess we did not really know what it was about, and we did not attach any particular importance to it at the time. Obviously, we should have, with hindsight, but we did not.

Mr. Martel: Well I do not look at it from hindsight, but I just know



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that I would be protecting myself if some law firm had told me they were going to sue me somewhere down the road and I got a phone call from them wanting to know where I was all week. My antenna would be up, and I would be a bit suspicious that someone is going to lower the boom on me, and that that did not occur, or anyone suggested that you had certain rights. I mean, if the guy were to serve me the papers, I would have handed them back and told him where to stuff them, quite frankly.

Mr. Gillies: I considered that option.

Mr. Martel: But you should have.

Mr. Gillies: I considered that option, but I ??.

Interjections.

Mr. Gillies: I got to tell you, Mr. Martel, as soon as I saw what this ?? "letter," ??quote, unquote, was my antenna went crazy and I, as any of us would, was trying to think of every option and every avenue, I mean, you know, just where did I stand on this matter. I do not mean to dismiss it lightly. When I saw what this was, I was extremely upset and concerned as to what the ramifications of it were. I have never been served with a writ of any kind before, and I do not know how many members of the committee have been--

Mr. Martel: Welcome to the club.

Mr. Gillies: --but I will tell you it is a rather uncomfortable feeling.

Mr. Sterling: Mr. Gillies, I wanted to--the timing...

M-1445-1 follows.

(Mr. Gillies)

...members of the committee have been, but let me tell you--

Mr. Martel: Welcome to the club.

Mr. Gillies: It is a rather uncomfortable feeling.

Mr. Sterling: The timing is important to me in terms of finding out what the intention of Stikeman Elliott and Mr. Flesichmann was in terms of taking the actions that they took. You indicated to Mr. Mancini that you asked questions on October 27, 28, and 29 of 1986 on the Huang and Danczkay affair. You were then served with a notice of intent to sue, which you are required to do under the Libel and Slander Act, on November 5. Is that correct?

Mr. Gillies: Yes, that is right.

Mr. Sterling: Can you remember at what time of the day you were served that letter?

Mr. Gillies: My recollection is, it was following question period that day, so it would have been probably between 3:00 and 3:45, somewhere in there.

Mr. Sterling: You indicated that you were asked by reporters about the service of the letter.

Mr. Gillies: That is right. I was told on that day, November 5, by people in the press gallery--reporters that I knew--that in fact the law firm had posted a notice in the press gallery that they intended to service this letter sometime that day. So, in fact, I was expecting, and knew, that something could happen. I even believe I was approached by one or two reporters asking for my comments even before I had received the letter. I declined comment until I saw what was going on that day, November 5.

Mr. Sterling: The press gallery, basically, had notice of the letter before you received it.

Mr. Gillies: That is correct. There seem to have been an awful lot of people around the building that day who knew what was coming before I did.

Mr. Sterling: Can you recall which member of the press gallery told you that Stikeman Elliott had posted the letter in the press gallery?

Mr. Gillies: I cannot. I remember speaking to three or four reporters before I actually received the letter. I am a little hazy on it, to tell you the truth. I believe that John Valorzi may have spoken to me, from Canadian Pacific.

Mr. Sterling: Was there any other letter of intent to sue served on anybody other than yourself and Ms. Artmont?

Mr. Gillies: Yes. There were three letters, as I recall. I was presented with one, Ms. Artmont with another, and a third was presented to our party whip, Ernie Eves, indicating that in fact the Progressive Conservative caucus was also being put on notice of suit.

Interjection: They do not tell you about that.

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Mr. ??Sterling: And the law firm required--

Mr. Turner: That is a broad rush.

Interjection: It is; dig deep.

Mr. Warner: Take it out of your slush fund.

Mr. Sterling: At that particular time, was the public accounts committee dealing with the whole matter?

Mr. Gillies: Yes, it was. In fact, I have just consulted some notes I made to myself, and I can clarify the point I was hazy on earlier, Mr. Mancini, in response to you. In fact, I went into public accounts committee on Thursday, October 30. I gave notice of motion that I intended to bring a motion in regarding the Huang and Danczkay affair, and then I did, as would normally be the procedure, bring in that motion on the following week, on November 6.

Mr. Sterling: On October 30, you served notice of the motion; November 5, you were served with the letter of intent, and November 6 was the motion that was brought in. What happened with the public accounts committee after November 6 in dealing with the Huang and Danczkay affair?

Mr. Gillies: The motion regarding the Huang and Danczkay affair, Mr. Fleischmann's involvement in it, and so on, passed the committee on a six to four vote. It was then left to the steering committee of public accounts to schedule that matter, which was not done, as I indicated earlier, until January. Subsequent to November 6, we really heard nothing in terms of either the issue itself--

M-1450 follows.



(Mr. Gillies)

...that matter, which was not done, as I indicated earlier, until January. So subsequent to November 6, we really heard nothing in terms of either the issue itself or, in fact, on the question of the lawsuit. We heard nothing for a period of many weeks.

1450

Mr. Sterling: So when was it then scheduled again for the standing committee on public accounts to deal with this matter?

Mr. Gillies: It was finally agreed that the public accounts committee would take the matter up commencing on January 22.

Mr. Sterling: When was that decision made to commence with it on January 22?

Mr. Gillies: It was made about a week previous. We had scheduled the Graham Software matter and, as has now come out publicly, the Ontario Development Corp. came before us in camera asking that the matter be delayed for a period of about three weeks. So Graham Software was put back, the Huang and Danczkay affair was moved forward, and the final decision to get into this Huang and Danczkay matter would have been made on or about January 15, because that was the day that the ODC matter was rescheduled.

Mr. Sterling: So on January 15, the public accounts committee decided to bring the matter up again. On January 19, your office got a call that you were going to be served with another paper. Then on January 22, you were served with the paper in this room while you were sitting on the public accounts committee before you actually considered the matter, but it was to be considered that day, was it not?

Mr. Gillies: Yes. The only thing I would caution is that you would have to ask Ms. Artmont whether, in the phone conversation on January 19, the word "served" was used. In the conversation Ms. Artmont had with me, the terminology was that they had a letter they wanted to deliver to me. I do not know in the case of their conversation what the terminology was.

Mr. Sterling: I know when you were in the committee, you made a good ??calm statement about you not being intimidated, but I just heard you make a statement, I guess before here, that you were nervous and upset once you had received the statement of claim.

Mr. Gillies: Yes.

Mr. Sterling: To me, I do not know whether that is being intimidated, but it certainly put you off.

Mr. Callahan: I am sorry, Mr. Chairman. I wonder if Mr. Sterling could speak up. I am having trouble hearing him.

Mr. Sterling: I am sorry. I have a bit of a cold and my voice tends to drop.

Mr. Turner: You are smoking too much.

Mr. ??: That does not help--

Mr. Chairman: I did not say it.

Mr. Sterling: You did indicate you were upset. Did it make you reflect in any way on the whole matter?

Mr. Gillies: Well, yes, to be honest, it did. I guess, for public consumption, any of us faced with something like this would want to put the best face forward and say, "I am not going to back down" and so on. But I have to tell you, for the first time in my life to be presented with a lawsuit of that magnitude was rather a daunting experience.

I guess I would further say that it has had an effect on the way I have performed as a member of the committee with regard to the Huang and Danczkay affair. To be very honest with you, there are questions I would like to ask in that affair that I worry about asking because of the impact it might have on this legal matter. Anyone who has ever been faced with one of these will know that it is rather intimidating.

Mr. Sterling: I guess the misapprehension one might get is that, while being a member of the Legislature and free to make a statement, that does not prevent the opposition, in terms of the lawsuit, using that information for whatever purposes they would like in a civil suit at a later date.

Mr. Gillies: I have a personal ethic on that, and I have said it before. I think I said it the day that this whole matter blew up in the House. I would never say something in the House which is protected that I would not say out in the hallway. I am wondering of late whether I should revise that policy, but I think it is a question of basic honesty. We are protected, but if you are going to raise questions about a touchy matter in committee or the House, my personal ethic is that you should have the guts to do it outside too.

I guess what I am saying, Mr. Sterling, is that I would not with impunity say things before the public accounts committee that I would not be prepared to repeat out in the hallway.

Mr. Sterling: I have no further questions.

M-1455 follows



(Mr. Gillies)

--That is what I am saying, Mr. Sterling, I would not with impunity say things before the public accounts committee that I would not be prepared to repeat out in the hallway.

Mr. Sterling: I have no further questions.

Mr. Callahan: I would like to go back over certain of the things you indicated to us. First of all I would like to find out whether or not when you were served with the notice of intent, as well as I understand Ms. Artmont, back in October, did you seek any type of legal advice about the nature of that document?

Mr. Gillies: Yes. At the time, as I said, Ms. Artmont, the PC caucus as represented by our whip and myself had all received these letters from Stikeman, Elliott. We conferred with our House leader and our leader at that time, this would have been on November 5, we conferred and I at that time called a liable lawyer, who I know in the city.

Mr. Callahan: Who is that?

Mr. Gillies: Mr. Julian Porter. I had I would say about a 10 or 15 minute conversation with Mr. Porter over the phone at that time, read the letter of intent to him. He indicated at the time that we should just let it sit for the time being. An inordinate number of letters of intent are given to people on many number of matters and the vast majority of them are not proceeded with.

Mr. Callahan: Did you say that Mr. Porter was an expert in liable slander?

Mr. Gillies: That is my understanding.

Mr. Callahan: When you called him on the phone were you calling him in a friendly capacity or where you calling him as a client of Mr. Porter?

Mr. Gillies: No, I was calling him as a gentleman I know, as someone I have fought some political words with who I just thought might have some friendly advice on the matter.

Mr. Callahan: My point is you were seeking gratuitous advice from him. You were not intending on becoming his client at that time.

Mr. Gillies: No. Based on the information that we had at that time we did not think it necessary to retain counsel. The feeling was that you wait to see if the matter is proceeded with before you get to that stage.

Mr. Callahan: You said it was 10 or 15 minutes on the phone. Did that 10 or 15 minutes revolve totally around the letter of intent and the issue at hand or where there other certain part of it, was it friendly banter?

Mr. Gillies: I am sorry, I have misspoken myself and I want to correct it right now. That particular week I received two letters of intent. The other one was a matter of some press attention at the time from Mr. Caplan. It was at the very same time and during the same week I called Mr. Porter about that one, not about this matter. I apologize. I want to correct that right away. We did not on November 5, contact any lawyer regarding this



matter. I had called Mr. Porter about the other matter, which was not proceeded with.

Mr. Callahan: Was the other matter also a liable or slander suit?

Mr. Gillies: It was a letter of intent regarding same which was settled. It was a misunderstanding at the time.

Mr. Callahan: Let me ask the question then on that matter. Did the 10 or 15 minutes on the Caplan matter, which was a liable, slander matter, occupy the full content of the conversation?

Mr. Gillies: Yes.

Mr. Chairman: You are causing me a little difficulty. I am trying my best to see how that relates to any matter which is currently before the committee and I am at a loss to see where it does.

Mr. Callahan: If you will give me a few moments, Mr. Chairman.

Mr. Chairman: No, I am not going to give you a few moments. We are here to ask questions of the witness in this matter.

Mr. Gillies: I must apologize, Mr. Chairman, because it was my misinformation that led Mr. Callahan to ask the question, but I want to clarify that it was the same week but that my conversation with Mr. Porter was about another and unrelated matter.

Mr. Morin: Point of order, Mr. Chairman. It is not fair to let him ask his questions and after that?

Mr. Chairman: I did let him ask three questions in a row. I said at the beginning that we can fish a little bit but if we get stuck in the weeds we are not going to adhere to our timetable.

Mr. Callahan: I was not fishing up until the time he said it was the Caplan matter as opposed to the matter in question.

Mr. Chairman: And you had no interference from the chair while you were doing that.

Mr. Callahan: Mr. Gillies, what I am trying to get at is during that 10 to 15 minute conversation which I gather was gratuitous, it was not a solicitor, client situation, did he advise you as to the background or the legal background of what this letter of intent meant and the fact that it could be followed up by a statement of claim on some other date? Did he give you time limits in terms of when it had to be done and so on?

Mr. Gillies: No, it was very general, the conversation, basically yes, he told me--  
M-1500-1 follows

(Mr. Callahan)

--that it would be followed up by a statement of claim at some later date? Did he give you time limits in terms of when it had to be done, and so on?

1500

Mr. Gillies: No, it was a very general conversation. Basically, yes, he told me this was a letter that would proceed an actual suit which could follow. My recollection is we did not talk time limits. We talked then about some of the specifics of that matter which, as I indicated, were unrelated to this matter.

Mr. Callahan: He did not talk about time limits but did he tell you that it could be followed up by a statement of claim.

Mr. Gillies: Oh, yes.

Mr. Callahan: Did he also tell you at that time that the purpose of that letter was to allow you an opportunity to apologize in which case there could be no further proceedings. Did he tell you that?

Mr. Gillies: If you have ever received one of these letters, that is stated right in there. It will briefly outline the matter under dispute, indicate that an apology is requested and if not forthcoming an action would follow. In the case of this matter before the committee with Mr. Fleischmann, we indicated very clearly there would be no apology forthcoming following the receipt of the letter of intent.

Mr. Callahan: You have told us Ms. Artmont got one similar to that, as did someone in your caucus. Did you have discussions with Ms. Artmont about the letter of intent at any time after it was received?

Mr. Gillies: Oh, I am sure we did. It was as I indicated, I think mid-afternoon, sometime between three and four, that we received the letters, Mr. Eves, Ms. Artmont and myself and we met. There were several meetings in succession that afternoon. I believe we met with Mike Harris, our House leader, to discuss it with him. We met with Mr. Grossman and his principal secretary, Darwin Kealey, and we had general discussions as to what, if anything, we should do about this.

Mr. Callahan: That was on October 28.

Mr. Gillies: No, I am sorry. This was November 5.

Mr. Callahan: November 5. Were there any other discussions other than those afternoon discussions about this letter of intent and between yourself and either Ms. Artmont or any other person who had received a letter of intent between November 5 and January 22?

Mr. Gillies: Yes, there would have been probably several. I would say within a day or two of the 5th, Ms. Artmont and I would have discussed whether in our own estimation anything had been said and indicated in the letter of intent which was worthy of or required an apology. Our decision was no, there was not. We would have discussed that.

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As I indicated, I think in response to Mr. Mancini, I do recall I think just after ~~the~~ Christmas holidays, just saying one day in the office I wonder if we are ever going to hear anything again about that particular matter. It was just one of those things that you would throw into a conversation.

Mr. Callahan: Then you went off to Ottawa, I gather some time before January 20, is that right?

Mr. Gillies: Yes, I do not have the date book with me, but we started early in the day on Monday in Ottawa and, as I recall, I drove up on the weekend. In fact, no, I remember I spoke at Queen's University on the Saturday, drove up from Kingston to Ottawa and stayed with friends for the weekend and then commenced the tour day on the Monday morning.

Mr. Callahan: Is it your practice when you are away from the office to call your executive assistant to gather the telephone messages you might have?

Mr. Gillies: I would either get Lyn Snell or my secretary, Linda.

Mr. Callahan: Do you recollect whether you called in on the Monday to see if there were any messages for you?

Mr. Gillies: Yes, I am sure I did and as I recall that day it was Linda that I spoke to in the office and she would have given me some messages that day. There was no mention of the conversation with the Stikeman, Elliott people.

Mr. Callahan: When you called in to Linda, would she also have the messages that your executive assistant had received?

Mr. Gillies: Normally, yes.

Mr. Callahan: Did you call in on the Tuesday as well?

Mr. Gillies: I may not have. We left early in the day. There was a bad snowstorm and we wanted to be back--I am talking about Ms. Fish and myself because she had flown to Ottawa but was driving back--

M-1505 follows.



(Mr. Gillies)

...may not have. We left early in the day. There was a bad snowstorm and we wanted to be back. I am talking about Ms. Fish and myself because she had flown to Ottawa but was driving back with me after the tour day we had done. We wanted to be back for question period. The weather was bad, so I believe we left very early, it may have been 7:30 or 8 in the morning, and drove straight through and, as I said early, getting back just in time for question period. So, I do not believe that I phoned that morning. I think the intent that morning was to get back as soon as we could.

Mr. Callahan: You have had an opportunity, obviously, to read the affidavit of Miss Artmont.

Mr. Gillies: Yes. I have it here.

Mr. Callahan: Do you consider that affidavit to be complete?

Mr. Gillies: To the best of my knowledge, Mr. Callahan, it is accurate and complete.

Mr. Callahan: Do you agree with the contents of that affidavit?

Mr. Gillies: Yes I do. I can quickly review it now, but I had read it before and as I say, I do not have knowledge of a lot of the contents of the affidavit because I was not present or privy to those conversations, but that I do know of in the affidavit is accurate.

Mr. Callahan: Do you at any place in the affidavit see anything where Miss Artmont says that she spoke to you on the Tuesday morning from your apartment?

Mr. Gillies: That is the Thursday morning.

Mr. Callahan: Do you see anything in the affidavit that she spoke to you on Thursday morning about a hand-delivered letter?

Mr. Gillies: No.

Mr. Callahan: Can you give us any accounting as to why that is not in there?

Mr. Gillies: You would have to ask her.

Mr. Callahan: Did you have any discussions with Miss Artmont before she prepared her affidavit?

Mr. Gillies: I did, simply to indicate to her that I understood the gentleman with the service company had prepared an affidavit. The sum extent of our conversation would have been that. I think Miss Artmont asked me whether I felt that she should prepare an affidavit. I guess my political advice to her was yes, but I suggested that she call our lawyer. By this point, caucus has retained legal counsel for us and I believe that she then had conversations with our lawyer, ??Mr. Brewser, as to whether there should be an affidavit and she produced one.

If you are asking whether I had any conversations with her about the content of the affidavit, the answer is no because I even at that early stage in the matter I think it would have been grossly inappropriate for me to suggest any of the contents. I said to her, "If you write an affidavit, with the help of our lawyer, put down point down point, what your recollection of the series of events was."

Mr. Callahan: When did you first find out about the information related in her affidavit, of this person trying to find out your schedule for the week, where you would be?

Mr. Gillies: Do you mean in terms of the details? As I indicated in the brief conversation we had on the Thursday morning, she indicated that the gentleman had called and wanted to give this thing to me that week and presumably, as the week was wearing on, he would probably be doing so either the Thursday or Friday. In terms of the details of the conversation that she had with the gentleman, I would not have been aware of them until the affidavit was prepared.

Mr. Callahan: The affidavit appears to have been sworn on January 27, so you are saying as late as the 27th or some time after that.

Mr. Gillies: I would think so. At this point, we both jointly and independently of each other, were having some discussions with our lawyer and I would think that he certainly would know more of the details, probably before I did. As I say, this affidavit was prepared with the guidance and assistance of our solicitors,

Mr. Callahan: I gather that the thrust of your evidence, in terms of the knowledge you had on January 22 was simply this brief phone call you had with Miss Artmont. You had no more information, other than that.

Mr. Gillies: That is correct.

Mr. Callahan: Are you suggesting that having heard the letter was from Stikeman, Elliot--I think you told Mr. Mancini that--did not trigger in your mind that this was the continuation of a lawsuit for which you had received a letter of intent way back in October and which you had just had recent...

1510 follows



(Mr. Callahan)

...the letter was from Stikeman Elliott--I think you have told Mr. Mancini. That did not trigger in your mind that there was continuation of a law suit with which you had received a letter of intent back in October, and which you just had a recent discussion about with Artmont in December about?

1510

Mr. Gillies: As I indicated to Mr. Mancini, I asked; I said, "I wonder if this is to do with the Fleischmann matter." I did indeed recall that Stikeman Elliott was the solicitor for Mr. Fleischmann.

Mr. Callahan: You did remember that then?

Mr. Gillies: Oh yes; I indicated that earlier.

Mr. Callahan: Just a second; was that thought in December or was that thought when you spoke to Ms. Artmont on the phone on January 22?

Mr. Gillies: January 22, I believe. It did occur to me; I want to be quite fair on this. It did occur to me that it could be regarding this matter, but that it could have been about any number of other numbers.

Mr. Mancini: I guess we can check Hansard, Mr. Gillies, but I do not believe you replied that way to my earlier question. We will check that.

Interjection: That is something we can do afterwards.

Mr. Callahan: You made a statement to the Legislative Assembly on January 22 to the effect that "I went into committee this morning completely oblivious of the fact that there was going to be any further action of the letter I had received in the fall." That is, in reflection that you did have this at least fleeting association of the letter with Mr. Fleischmann--not totally accurate, is it?

Mr. Gillies: We could debate that. I had no knowledge that they intended to proceed. I was aware that there was a letter coming. The letter could have been about anything, and in fact the letter, for all I know, could have been indicating that they intended not to proceed. The point is that I was not expecting to be served with libel papers that day, or any other day, regarding the Huang and Danczky matter.

Mr. Callahan: Are you saying that you stand by your statement to the committee of the Legislative Assembly on January 22, even though you had this thought that went through your head when you thought about the letter you were told about--the word Mr. Fleischmann flashed up like a neon sign?

Mr. Gillies: I guess there are degrees of oblivion, but if I in the House used that phrase, perhaps a more accurate phrase would have been, "I had no knowledge of the intent of the matter to proceed, or the way that the people intended to proceed with it." I guess there is some difference between that and being oblivious to the possibility; I will concede that point.

Mr. Callahan: Can I ask you, when you made that statement to the Legislative Assembly, was it--from the colloquial term--off the top of your head, or had you written it out and considered it before you read it out in the House?



Mr. Gillies: No, I put a few points down on paper, but that statement in ~~the~~ House was not a text; it was extemporaneous.

Mr. Callahan: Can I take you to a further statement which you made, which I will quote to you, "I heard not one more word from the law firm of Stikeman Elliott or from Mr. Flesichmann himself from the day I received that letter--that is the letter of intent--until the morning when the writ was served me in the public accounts committee." That is not accurate, is it?

Mr. Gillies: Yes it is; it is completely accurate.

Mr. Callahan: That was subsequent to receiving the telephone conversation with Ms. Artmont about the fact that a letter had been received from Stikeman Elliott, or wanted to be delivered.

Mr. Gillies: A letter had not been received from Stikeman Elliott, and a conversation with Ms. Artmont as to what may or may not happen does not to me constitute being contacted by the law firm. The first contact I had from the law firm was the letter of intent in November. The second contact I had from the law firm was the writ itself, as far as I am concerned.

Mr. Callahan: I want to be fair; I want to read it to you again. You tell me what you make of it. I quote, "I heard not one more word from the law firm of Stikeman Elliott or from Mr. Fleischmann himself from the day I received that letter until this morning when the writ was served me in the public accounts committee." Clearly, any reasonable interpretation of that is, you are denying that you even had the phone message from Ms. Artmont--

Mr. Gillies: I do not think so at all. I said, I did not hear or receive anything from these gentlemen from the day I received the letter until I received the writ; that is the interpretation I would continue to put on it.

Mr. Callahan: Mr. Gillies, why did you not enlarge--

M-1515 follows.

(Mr. Gillies)

...of these gentlemen, from the day I received the letter until I received the writ, and that is the interpretation I would continue to put on it.

Mr. Callahan: Why did you not enlarge on that by saying that, "Although Ms. Artmont had called me on Tuesday morning at my apartment"--or I suppose it was Thursday morning--"I told her I was going to be late for the committee and would she take the file down and at that time she told me there was someone trying to deliver a letter from Stikeman, Elliott." Why could you not have said that in the House?

Mr. Gillies: I did not think it was necessary. Mr. Callahan, I could have told the House what I had for breakfast that morning.

Mr. Turner: On a point of order, if I may ??--I think, and it is contrary to my understanding, but did Ms. Artmont phone you or did you phone her?

Mr. Gillies: No, I phoned her.

Mr. Turner: That is better.

Mr. Callahan: I am not certain whether it makes a difference who phoned whom, Mr. Turner, but thank you for the observation.

Mr. Turner: Well, sure it does.

Mr. Callahan: I would like to go on then. You are saying, I suppose in hindsight you would have preferred to have added that addition?

Mr. Gillies: Oh, I am not sure I would have at all.

Mr. Callahan: Mr. Gillies would have added that information so that we would have the full picture of what was said.

Mr. Gillies: I am not sure I would have at all, Mr. Callahan. I say again, I had no idea, as a result of the conversation I had on the Thursday morning as to what the nature of the contact these gentlemen at this law firm wanted to make with me was. It would have been speculation for me at that point, as to what it was. As I say, the substantive point is the, on the 5th of November, I received a letter from these people and on the day in question in January, I received the writ. Those are to me the substantive issues I thought worthy to bring to the attention of the House.

Mr. Callahan: All right. Are you stating in your evidence that at no time did Lyn Artmont indicate to you that she had had a telephone conversation with Rex Clamp, or someone from his office?

Mr. Gillies: Absolutely. I think the first time I would have been aware of Mr. Clamp's name was when I saw his affidavit, subsequent to the 22nd.

Mr. Callahan: Are you aware of the statement that was made by Ms. Artmont in the press? I believe you have a black book in front of you. I think it is in there.



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Mr. Chairman: Are you getting tired of fishing this side of the lake, Mr. Callahan? Do you want to try another spot?

Mr. Callahan: No, with respect, I am not sure that it is fishing, Mr. Chairman. I would suggest the entire issue we have before us, quite apart from the contempt and the privilege, is really a question that we are going to have to decide. As my good friend over there said, it makes a lot of sense that we are going to have to decide whose evidence is correct and whose is not. I think that is very critical to this entire issue. Thank you for your comment.

Mr. Chairman: Just moving along.

Mr. Callahan: In the press release, your executive assistant is reported as having indicated words to the effect that--this is quoted in the Toronto Star, January 23, 1987--and I have not got the exact words, but it is: "She actually expected she and Gillies would be served on Wednesday."

Now, "served"--and I underline the word "served"--why do you suppose-- The exact words have been handed to me. They were, "Armtont denied that she had invited Clamp to send a server yesterday and said she actually expected she and Gillies would be served on Wednesday."

Now, first, from that comment it is clear Ms. Armtont knew about Mr. Clamp anyway. Otherwise she was certainly making a rather erroneous statement to the Star. Second, she said she actually expected she and Gillies would be served on Wednesday. That is hardly the appropriate word for a letter. If she made those statements how can you, Mr. Gillies, tell us you did not have any information about the service of a legal document on Thursday ??and that the statement you made to the House was correct? How can you possibly tell us that unless Ms. Armtont is either out of her mind or she is lying?

Mr. Gillies: I think you would want to consider, Mr. Callahan, as to whether you should be sitting in here telling people they are out of their minds. We are all protected in what we say, but I would not want to see you hit with a law suit.

Mr. Callahan: Is that intimidation, Mr. Gillies? Or are you trying to intimidate me?

Mr. Chairman: Back into the boat, boys.

Mr. Gillies: Take it as you will, Mr. Callahan.

Mr. Chairman: I want to draw to your attention that there is such a thing as parliamentary language and while I am loose, to quote Mr. Martel, on the use of the--

Mr. Callahan: I withdraw the "out of her mind."

Mr. Chairman: Yes. There are a couple of other things that you have to withdraw, too. I am not very happy that you would accuse any member or anyone who works in this building of lying, even in an indirect way, and I would ask you to rephrase that.

Mr. Callahan: I will ask Mr. Gillies--



Mr. Mancini: Mr. Chairman, on a point of order.

Mr. Callahan: No that is fine, Mr. Mancini. I am a big boy. I can look after myself

M-1520-1 follows

(Mr. Callahan)

--tried to intimidate me.

1520

Mr. Chairman: Back into the boat boys. I want to draw to your attention that there is such a thing as parliamentary language and while I am loose, to quote Mr. Martel, about the use of--

Mr. Callahan: I withdraw the out of their mind.

Mr. Chairman: Well there are a couple of other things that you have to withdraw too. I am not very happy that you would accuse any member or anyone who works in this building of lying, even in an indirect way and I would ask you to rephrase that.

Mr. Mancini: Mr. Chairman, on a point of order.

Mr. Callahan: No, that is fine, Mr. Mancini. That is fine. I am a big boy I can look after myself.

Mr. Mancini: I was in the legislative assembly committee all summer long when I heard Terry O'Connor call a former cabinet minister a liar and I did not hear anyone ask him to withdraw anything.

Mr. Chairman: I think you must have missed a couple of sessions then.

Mr. Mancini: No, I did not miss any sessions.

Mr. Callahan: I do not have any problem with that. I am prepared to ask you, Mr. Gillies, whether in your opinion the Toronto Star, in its January 23, 1987 account of Ms. Artmont's comments, I quote again, "She will benefit." If you would like a copy to look at. "Artmont denied that she had invited Clamp to send a server yesterday and said she actually expected she and Gillies would be served on Wednesday."

First of all are you denying that she said that to the Star?

Mr. Gillies: I am not denying anything. Mr. Callahan, you are a lawyer, how could I deny that somebody else said something? Why do you not ask that person? All I can tell you that the testimony that I have given, which is that I first became aware of the possibility of this matter coming forward on the Thursday is accurate. If you have any questions or problems with what anyone else has said to any newspaper, you should ask them.

Mr. Callahan: We will when she comes but I would like to inquire, are you saying then, even in light of this, that at no time--I think you have said it--that at no time Clamp was discussed with Ms. Artmont in advance of Thursday when the papers were served?

Mr. Gillies: No.

Mr. Callahan: At no time did she indicate to you that there might be service of some type of legal document?

Mr. Gillies: That is correct.

Mr. Callahan: That leads me to ask one question and I suppose it is one that was raised by Mr. Martel and it is something I have trouble understanding, if in fact the statement she has made to the Star--I mean we will ask her whether that is correct--if in fact that is true, are you stating that things were so hectic on the Thursday morning whenever called who at the apartment that she would not have drawn to your attention the factor that she had knowledge that a process server was going to serve, not deliver, but serve a document on you? You are telling us under your oath as a member that that is the case?

Mr. Gillies: What I am telling you is that my recollection of the conversation on the Thursday morning was that a person had called saying they were from Stikeman Elliott. To the best of my recollection there was no mention of a process server, no mention of anyone named, Mr. Clamp. Somebody had called from Stikeman Elliott that wanted to deliver a letter to me and that this might happen that day. It was in the context of an early morning phone conversation with a member of my staff as to, "Well, what is coming up today? What is on the agenda?"

Mr. Callahan: How long has Ms. Artmont been with you?

Mr. Gillies: She started with me when I was minister for youth. It would have been January 1985, so about two years.

Mr. Callahan: You have never had any difficulty I would presume with her giving you very important messages?

Mr. Gillies: None whatsoever. She is a very conscientious and very thorough and valued member of my staff.

Mr. Callahan: Would you at least agree with me that on the basis of what you have told us, that if she did not tell you about the call from Clamp and the factor that a process server was coming over, that was certainly one occasion where she fell down on a very important issue? And certainly ?? we will ask her whether it is true or not.

Mr. Gillies: I would have to review Ms. Artmont's affidavit as to what her knowledge was of the identity and role of this gentleman. Whether he in fact indicated to her that he was calling as a process server or whether he said he was calling on behalf of Stikeman Elliott. That I do not know. All I would say is that we had a lot of messages that week. I had been out of the city for a day and a half and Ms. Artmont gave me the information belatedly.

In hindsight, I would have preferred to know that this letter might be floating around earlier than I did. But that was not the case.  
M-1525-1 follows



...Ms. Artmont gave me the information belatedly. In hindsight, I would have preferred to know that this letter might be floating around earlier than I did, but that was not the case.

Mr. Callahan: There is no doubt that when she is referring to Wednesday, she is referring to the day before the public accounts hearing at which she was served with the document.

Mr. Gillies: Yes, but I do not think there is any question or any doubt in the committee's mind that Ms. Artmont had a phone conversation with the representative on the Monday that I did not become aware of until the Thursday.

Mr. Callahan: All right, so what you are saying then is that this information was not passed on to you.

Mr. Gillies: Right.

Mr. Callahan: Okay.

Mr. Gillies: But I thought that was clear to everyone--that she had talked to these people on the Monday, but I did not know about it until the Thursday.

Mr. Callahan: And I suppose this would explain the statement that she made, I believe it was in the Toronto Sun, that she did not think they would be stupid enough to serve it in the committee.

Mr. Gillies: I guess so.

Mr. Callahan: Now, you arrived back on Tuesday from Ottawa?

Mr. Gillies: Tuesday, just in time for question period, so around 1:30 or so.

Mr. Callahan: And your conversation that you had with Artmont, was that on Tuesday or the Thursday?

Mr. Gillies: Thursday morning.

Mr. Callahan: Well, did you have any conversation with Artmont between-- I gather you were around here Tuesday and Wednesday and at your apartment on Thursday. Did you have any discussions with Artmont in person--let us start with that--between Tuesday, when you arrived back, and your conversation with her on Thursday morning?

Mr. Gillies: I am sure I would have had conversations with her in that period. When I arrived for question period, I think Lyn was in the lobby to give me a quick briefing on what was going on in question period. It would normally be our practice to chat about what has been going on at the office after question period. I cannot recall what was going on on the Wednesday morning. I was around doing something, but yes, almost inevitably we would have had conversations during that period of time.

Mr. Callahan: ??She is your executive assistant, and if she is like

most of our executive assistants, they are usually with you at least throughout the business day on a regular basis.

Mr. Gillies: Not completely, Mr. Callahan, because when I am in the House or in committee, Ms. Artmont, if she has some specific responsibilities or something that she has to do for me at that time, she will be around. But barring that, as you know, there are many hours in a week that we are physically in one place doing our duties and our executive assistants are in the office doing theirs.

Mr. Callahan: If she states in her affidavit, which she does, that, "On Monday, January 19, 1987 at about 11:30 a.m., I received a telephone call" she says "from the law firm of Stikeman, Elliott," would she make up a telephone message in that regard?

Mr. Gillies: Not necessarily. If the call was to her, she would deal with it as she sees fit and presumably make any notes that she required for her own purposes regarding the call. I would only get a phone message--and I think a lot of us run our offices this way-- Our staff deals with certain matters and if somebody wants to speak directly to me, then I would get, on my list of phone messages for that day, a message to call the individual back. That was not the case in this matter.

Mr. Callahan: That was what I was going to ask you. More specifically, was there, in fact, a written record of that call that she received given to you either then or at any time thereafter?

Mr. Gillies: No. At no time.

Mr. Callahan: Have you ever seen a copy of that phone message written down any place?

Mr. Gillies: No.

Mr. Callahan: So it is not available for us to peruse?

Mr. Gillies: Well, you could ask Ms. Artmont. As I say, Mr. Callahan, she may have made a note to herself for her own purposes, but there was not a phone message passed on to me.

Mr. Chairman: I have two other members who have indicated they would like to ask some questions, and I would like to get to the second witness.

Mr. Callahan: I am getting close to the end, so I will recognize that, Mr. Chairman.

In essence, what you are saying is that the affidavit-- You have seen the affidavit from Mr. Clamp? Is that correct?

Mr. Gillies: Yes. I do not have it with me, but I have seen it.

Mr. Callahan: You have read through it, though, prior to today?

Mr. Gillies: Yes.

Mr. Callahan: So what you are saying is that what Mr. Clamp has said

in his affidavit is totally not correct?

Mr. Gillies: I cannot say that.

M-1530 follows



(Mr. Callahan)

Is that correct?

1530

Mr. Gillies: Yes, I do not have it with me, but I have seen it.

Mr. Callahan: You have read through it, though, prior to today.

Mr. Gillies: Yes.

Mr. Callahan: So what you are saying is that what Mr. Clamp has said in his affidavit is totally not correct.

Mr. Gillies: Well, I cannot say that, Mr. Callahan, because I was not privy to or part of the conversations between Mr. Clamp and Ms. Artmont, and a lot of the events described in those affidavits took place at a time when I was not even in the city of Toronto, so I cannot say that. What I would say is that, based on my working relationship with Ms. Artmont, I have no reason to doubt her recollection of the facts at hand and that I have every confidence that her affidavit is an accurate recollection for the committee's purposes.

Mr. Callahan: Right. I have one final question. When you were standing over by the coffee machine, or at least up from your desk here, did Ms. Artmont say to you the following or something similar to it, "Here is the guy I told you about"? I caution you that it is my understanding that that may have been overheard, so I would suggest that you--

Mr. Gillies: I do not recall exactly what she said, to be honest. All I know is that I went over. She said that the man was--I believe she said he was representing Stikeman Elliott, and then he proceeded to give me the papers, and the brief conversation I have already described took place; but I honestly cannot recall the exact words.

Mr. Callahan: If she did say to you, "Here is the guy I told you about," surely that would lead any reasonable person to believe that you she had told you more than you have related to us?

Mr. Gillies: That is supposition because, as I say, I cannot recall what the exact words were.

Mr. Callahan: You did have a conversation with Ms. Artmont, did you not, before you were served with the papers by this gentleman?

Mr. Gillies: If I did, it was extremely brief because all she did basically was gesture me to the back of the room where the gentleman was sitting and then he stood up and indicated that he wished to give me these papers. If Lyn said a word or two between those two instances, I cannot remember what they were.

Mr. Callahan: But you ..??.....served.

Mr. Gillies: To tell you the truth, I cannot even remember whether she introduced the gentleman by name or not. I think I shook his hand before

he--

Mr. Callahan: Sounds more than what Elie would have done, he told us.

Mr. Gillies: But I just cannot recall what the exact words were.

Interjection.

Mr. Callahan: In fairness to the other members, I would like to have another opportunity if we get around to that. I have one more question, if I can ask it.

Mr. Chairman: I was going to suggest to you that we have a second witness and we have, I guess as long you want, but I would suggest that perhaps if we could conclude with Mr. Gillies by four that would give us lots of time with the second witness; and it does appear to me that many of the questions being directed to Mr. Gillies would be a little more appropriately directed to Ms. Artmont.

Mr. Callahan: I appreciate that. Well, if that is the case, I have one further question. Mr. Gillies, I sat on the public accounts committee and certainly my understanding of your original statements to the Sun and to The Star were to the effect that a convert-to-rent project would not be allowed on lands where buildings had been ripped down. You have certainly subsequently learned after making that statement that in the committee hearings of the public accounts that that was within the mandate of the convert-to rent program. Is that not right?

Mr. Gillies: Well, Mr. Chairman, I think we are getting into matters now of the substance of the inquiries that the public accounts committee is undertaking. I have two concerns about that; one, I did not understand that to be the matter before this committee, but also I have been cautioned by my solicitor in terms of discussing substantive matters that may constitute part of the legal proceedings, so I ask your guidance on that.

Mr. Chairman: I would agree that the witness is not here to debate matters that are before another committee. The terms of reference are fairly specific and, if he has some legal advice that advises him not to respond to questions of that kind, the chair would respect that.

Mr. Callahan: I am prepared to honour that, Mr. Chairman. The only thing I would say is that my understanding--and I am sure any member of the public accounts would recognize that the original statement that was made by Mr. Gillies which forms the subject matter of the libel action has gone up in smoke in that the guidelines of the convert to rent clearly allow the procedure that was partaken of the Huang and Danczkay lands, and you as a member of public accounts and every other member would have been aware of that, and that was the thrust and the meat...  
M-1535-1 follows.



(Mr. Callahan)

--guidelines of the convert-to-rent program clearly allow the procedure that was partaken of the Huang and Danczkay lands and you as a member of the standing committee on public accounts and every other member would have been aware of that and that was the thrust and the meat of the very action that you were being served with a libel statement of claim in the committee.

Mr. Chairman: Mr. Gillies, take your lawyer's advice and do not answer that.

Mr. Gillies: All I would say in very general terms, Mr. Breaugh, is the position of our party is the loan should not have been made to that project if the project did not qualify for that loan and that remains the position of our party to this day.

Mr. Chairman: The standing committee on public accounts will argue that point.

Mr. Callahan: I think, perhaps, the press reports of Mr. Gillies said should be read and clearly at the time he made the statement, the statement was that this was not within the terms of reference of the convert-to-rent program. If you wish, I--

Mr. Chairman: I have to point out that matter is not before this committee and we will not be arguing that kind of material for the duration of the hearings. If you want to work it in as a little slap in the face as you go by, fine, but it is not on the table. All right?

Mr. Warner: This fishing expedition has led into the swamp, obviously.

Mr. Chairman: Two minutes for high sticking. Put on your hip waders, David.

Mr. Warner: Just a couple of things. Phil, did you tell or write to your assistant, Ms. Artmont, as to the subject matter for the committee that would be sitting on the Thursday in question?

Mr. Gillies: I am not quite sure I understand your concern.

Mr. Warner: Did you tell Ms. Artmont or leave her a note to the effect of explaining what the agenda would be? Would it be reasonable to expect that she would know what you were doing on Thursday?

Mr. Gillies: Yes, she would know. Ms. Artmont assists me in our preparations for matters going before the standing committee on public accounts that I am concerned with. In fact, normally she keeps in touch with the clerk of the committee and, in all likelihood, in some instances she would know the subject matter coming up on any given Thursday even before I would.

Mr. Warner: Okay. Could you briefly describe for me why you felt at the time anyway--maybe you still do today--the serving of the writ was a form of intimidation?

Mr. Gillies: My concern was the timing. The problem as I saw it was



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this. When we first raised the matter in the House at the end of October, it was followed ~~within~~ a week by the letter of intent. Some months later, the matter is finally scheduled for consideration by the standing committee on public accounts and on the very day the committee is to begin to undertake the inquiry the libel papers were served.

It struck me as quite a remarkable coincidence, if indeed that is what it was, that those events should have occurred at the time they did. My feeling was that for me or for any member of the Legislature to be served in a committee or in the environs of the House when the matter of debate by that committee or the House is the matter that is the subject of the suit, that those two things should coincide struck me as more than a coincidence and very possibly an attempt at intimidation.

Mr. Warner: How was that intimidation. I am still puzzled by that. You know you have the right to speak in committees just the same as in the House without fear of reprisal. How does the serving of the writ intimidate you?

Mr. Gillies: I personally think it is intimidation for a member of the assembly who is going about his or her work with regard to a specific subject to be slapped with a lawsuit regarding that subject at the very time that work is about to be undertaken. One could see it as a signal to leave the matter alone, a very strong signal, a \$2.7 million signal. My feeling at the time was that it was an attempt to intimidate.

Mr. Warner: Would you acknowledge that there is another possible interpretation of those events and that is if we take a high-profile issue and a high-profile politician who is shall we say--

M-1540 follows.

(Mr. Warner)

...possible interpretation of those events, and that is if we take a high-profile issue and politician who is, shall we say, attacking the government on particular issues, and you bring the two of them together in a room, and you have a lawsuit served in the committee that is dealing with the issue as opposed to having it served on a quiet weekend up in Brantford, that, rather than being intimidating, in fact could be interpreted to be the total opposite. It would serve a useful political purpose and allow someone the opportunity for front-page coverage in every newspaper in the province.

1540

Mr. Gillies: You could see it that way, I suppose, but I want to assure you, Mr. Warner, that there was no political topspin put on this matter, as far as I was concerned, and in so far as my knowledge goes, as far as Ms. Artmont was concerned.

These people gave notice; they filed the writ with the court offices, I believe, a week previous to the actual serving; on the Friday, I believe. They picked the time and place that they wanted to do it, and they did it. I can attribute one motive to their wanting to come in on a Thursday morning to a particular committee and give me those papers; they might put another motive or construction on why they did it at that time. I want to assure you that as far as I know, the decision was their decision.

Mr. Warner: Did you know at 9:00 a. m. that morning that you were going to be served?

Mr. Gillies: No. I knew at 9:00 a. m. that morning that the law firm of Stikeman Elliott wanted to give me a letter some time that week.

Mr. Warner: Did you know who they represented?

Mr. Gillies: In terms of them specifically indicating or me having specific knowledge as to who they were representing in undertaking this action, no. If you are asking me, did I have a recollection from the fall that this particular law firm represented Mr. Fleischmann, then yes, I had that knowledge.

Mr. Warner: You knew back in the fall that they represented Mr. Fleischmann; is that correct?

Mr. Gillies: Yes, indeed.

Mr. Warner: You had thought about the matter, certainly past Christmas, wondering why you had not been served. You had an anticipation that based on having raised the issue, having received a letter and subsequent advice from Mr. Porter, that it was reasonable to assume that at some point you might be served with a writ.

Mr. Gillies: Might be; to characterize my musing of early January as to be in the vein of, I wonder when we are going to be served, is not quite the way I saw it at the time. I would characterize it more as, I wonder if we are ever going to hear any more about that. Was that a flash in the pan; was that a backoff letter. I just wonder if we will ever hear about that one again.

Mr. Warner: Okay, no further questions.

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Mr. McFadden: Just a couple of brief questions. The question came up about intimidation. Is your net worth in excess of \$2.7 million?

Mr. Gillies: It would fall somewhat short of that.

Mr. McFadden: Considerably short of that?

Mr. Gillies: Considerably short of that. I am not a wealthy man; I think, like most of us, I basically live on what I make around here.

Mr. McFadden: In so far as your knowledge of the law--we have been going on about it at some length on this cross examination. Did you ever attend law school?

Mr. Gillies: No.

Mr. Callahan: That does not help David.

Mr. McFadden: I assume, therefore, that you are not particularly familiar with court processes.

Mr. Gillies: No; I suppose inasmuch as any casual observer, and to the extent that there is the odd time that something comes up to do with our work as legislators that involves courts, but in terms of details, proceedings and so on, I am not particularly familiar with them.

Mr. McFadden: Would it be safe to say then that you would not be aware of all the various terminology that lawyers or process servers or others you might use for legal--

M-1545 follows.



(Mr. Gillies)

--but in terms of details and proceedings and so on, I am not particularly familiar with them.

Mr. McFadden: It is safe to say then would it be, that you would not be aware of all the various terminology that lawyers as process servers or others might use, who are legally trained in connection with the legal proceedings of one type or another?

Mr. Gillies: That is correct.

Mr. Chairman: Short questions from Mr. Mancini and Mr. Martel.

Mr. Mancini: I am assuming that Mr. Porter, whom you spoke with, did in fact go to law school and is aware of the law and the 15 minute conversation you had with Mr. Porter was somewhat revealing, Mr. Gillies?

Mr. Gillies: I would hope he attended law school, Mr. Mancini. It would be very serious if he did not.

Mr. Mancini: I want to ask you, Mr. Gillies, again about Ms. Artmont's affidavit. I believe you told the committee earlier, when you were being questioned by Mr. Callahan, that you did not really speak with Ms. Artmont about her affidavit in any specific terms.

Mr. Gillies: In terms of contents, but that the issue that I would have discussed with her was after the other affidavit, I guess by Mr. Clamp, had been produced and I might add, not under a bushel. The representatives from the law firm held a scrum upstairs and it was flying around the press gallery and so on, which characterizes the way they have approached this whole matter. The question then became as to whether it would be of value for Ms. Artmont to herself swear an affidavit. She asked my advice on that matter. My advice was that she do so. She then sought advice from our solicitor. To that extent, yes I discussed the question of an affidavit with her.

Mr. Mancini: What was the date of Mr. Clamp's affidavit? I guess it was Mr. Clamp we are talking about here.

Mr. Chairman: You had that.

Mr. Mancini: Yes, I am just looking through my notes, Mr. Chairman. Yes, it is the 22nd.

You spoke to Ms. Artmont after January 22 about her affidavit, but not really in specific terms? Is that what you are telling the committee?

Mr. Gillies: Not about the contents of the affidavit but as to whether or not in view of Mr. Clamp's affidavit she should herself swear one.

Mr. Mancini: You in no way assisted her in writing the affidavit and you did not see the--this is a double question if you do not mind--you did not see the affidavit until after it was written and made public, more or less?

Mr. Gillies: First, I could not have assisted her in the preparation of the affidavit because the matters contained in it are largely matters of which I have no knowledge. Second, I do recall the day that Lyn took several hours off from the office to go down to the office of our lawyer with whom she

prepared the affidavit and my first glimpse of the document would have been after she returned and about the same time that it was in fact being filed with the committee.

Mr. Mancini: Okay, you did not see this document. You did not see the details of this document and you did not speak to her in detail about this document?

Mr. Gillies: Correct.

Mr. Mancini: Okay. However, after the public accounts committee finished its work around noon on January 22, you rose in the House at 1:30 on a point of privilege and made a number of statements. Then again on January 22, in a debate in the Legislature, I believe in a response to Mr. Nixon, you rose again and made a number of statements.

Mr. Gillies: Yes, I did. I recall that particular occurrence, if I might speak to it. I thought at the time and continue to think that it was grossly inappropriate for the House leader for the government to involve himself in what was a civil matter. I was very offended that Mr. Nixon chose to rise in the House as far as I could see, to defend the actions of one of the party's in this matter and I rose to indicate my displeasure with that particular event to the House.

Mr. Mancini: That is all well and good but we are not here to discuss that particular matter, Mr. Gillies.

Mr. Gillies: You mentioned it, so I--  
M-1550-1 follows



(Mr. Gillies)

--parties in this matter and I rose to indicate my displeasure with that particular event, to the House.

1550

Mr. Mancini: That is all well and good but we are not here to discuss that particular matter.

Mr. Gillies: You mentioned it so I thought I would clarify.

Mr. Mancini: You made statements on January 22 and the 26th in the Legislature that in a number of ways, and I say directly, affected the communication and the work between yourself and Ms. Artmont. You made those statements really without going over in detail with her the things that actually happened because you are telling us that you did not see the affidavit which swore out in detail what actually happened. Why is it that you would have made these statements in the House without sitting down with Ms. Artmont and saying, "Look, let us find out between the both of us what really happened? If you failed to give me information on the Thursday morning, it is important for me to get this information now."

Why would you make statements in the House on January 22 and January 26 without having all the details?

Mr. Gillies: One of the things that was so unfair about what Mr. Nixon did that day was that--

Mr. Mancini: I am talking about the 22nd, Mr. Gillies. Let us deal with the 22nd.

Mr. Gillies: That is what I am talking about.

Mr. Mancini: Let us deal with the 22nd.

Mr. Gillies: Oh, you want to go back to the 22nd?

Mr. Mancini: Let us deal with the 22nd, because you had ample time between 12 noon and 1:30 to speak with Ms. Artmont. Apparently from your evidence, you did not. Now, I want to know why.

Mr. Gillies: First of all I never said that I did not talk with Ms. Artmont subsequent to the completion of the public accounts meeting. Your specific question, as I recall, was whether I was involved in the preparation of this affidavit. The answer to that question is, no. You are asking me if I discussed the events of the day with Ms. Artmont, well the answer of course is, yes. But, I do believe they are two very different questions.

Mr. Mancini: And again on the 26th?

Mr. Gillies: And again on the 26th of course. As I was going to indicate, with regard to the 26th, one of the things that I thought was so unfair in terms of the government House leader's action at that time, was that he was standing in the House taking sides on this matter with regard to the question of accuracy between Mr. Clamp's affidavit and the statements by Ms. Artmont, when Mr. Nixon would have known very well of course that Ms. Artmont had no voice in the House of her own to refute what was being said, which is



why I chose to rise in the House just to indicate to the House, as much as anything, ~~that~~ the matter that Mr. Nixon had embraced was in fact under dispute and that there was another side to it.

Mr. Chairman: Can I interject just a minute, Mr. Mancini. You really are off the mark quite a bit here. If you want to quickly get your questions in, give me some faint clue that it is connected to something that is before the committee.

Mr. Mancini: Are you telling me, Mr. Chairman, that the affidavit is not connected to the committee?

Mr. Chairman: I am prepared to talk about the affidavit all day but I am not prepared to entertain who said what in the House thereafter.

Mr. Mancini: Excuse me, Mr. Chairman, but our briefing notes include speeches from the 22nd and the 26th.

Mr. Chairman: Yes.

Mr. Mancini: Are you telling us that is no longer relevant?

Mr. Chairman: No, that is why you got them because they are relevant, but I do not want to rehash the afternoon's debate of the Legislature. You have a matter, a very specific one before you.

Mr. Mancini: I think it is very important.

Mr. Chairman: I have let you pursue that line of questioning quite a bit. I am just telling you I am a little sick and tired of it.

Mr. Mancini: I cannot help what you are sick and tired of, Mr. Chairman, with all due respect.

Mr. Chairman: You will.

Mr. Mancini: What we have to find out here is the flow of details between you and Ms. Artmont, when they took place and how they took place, how that affected her affidavit. That is what is important.

Mr. Gillies: With respect, I would suggest what you should be directing your energy towards is the service of the member of an assembly during a sitting of the House in contravention of the Legislative Assembly Act. I could try to reconstruct every conversation I had that week for you, Mr. Mancini, and I am not sure how helpful it would be because I think you are away off in left field.

Mr. Mancini: I think Mr. Warner put it very well earlier in his comments and anyone who wants to read Hansard, will see the other side of the story. You yourself, in response to Mr. Warner, said, yes, that scenario that he talked about could be construed as something that could happen, but however, in your case you certainly did not do that. That is what is giving this--

M-1555-1 follows

(Mr. Mancini)

...said yes. That scenario he talked about could be construed as something that could happen but however, in your case, you certainly did not do that. That is what is giving this committee cause for grave concern. Ms. Artmont's affidavit is directly contradictory to the affidavit given by the process servers.

Mr. Sterling: Let us ask them about it.

Mr. Gillies: We will. But, as I indicated earlier, Mr. Mancini, I cannot really help you with the details of those two affidavits. Many of the events described within them were not known to me. They occurred when I was 400 miles away and I wish I could be more helpful regarding those affidavits.

All I can restate for you is that my sole involvement in terms of Ms. Artmont's affidavit, was in recommending to her that she prepare one, and that she do so in consultation with our lawyer, which she did.

Mr. Warner: Can I have one brief question?

Mr. Chairman: I am going to be an old man by the time you boys finish with your brief questions this afternoon. Go ahead, Mr. Warner. You are always--you are even being quoted as a source now. That is always dangerous.

Mr. Warner: I always worry about that kind of support.

Mr. Chairman: Go ahead.

Mr. Warner: After the fact, after the Thursday when you had been served, did you ask Ms. Artmont why she did not inform you, between Monday and Thursday, that you were going to be served?

Mr. Gillies: Yes, and she basically, to paraphrase, said that it slipped her mind. It was one of a number of things--

Mr. Warner: A \$2 million lawsuit slipped her mind?

Mr. Gillies: Well, no, but you see, this is where the hindsight is causing us problems. Mr. Warner, all we knew was that a representative of a law firm had called and said they wanted to deliver a letter to me that week. It could have been about anything. It could have been about concerns about Bill 166.

Mr. Warner: That is absolutely right.

Mr. Gillies: It was only Thursday that we learned the matter at hand was a multimillion-dollar lawsuit. Obviously, with the knowledge we have now we would have taken that call extremely seriously. At the time, not a great deal of importance was attached to it at all.

Mr. Warner: So you are not quite as well organized as those guys say you are?

Mr. Gillies: I would--



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Mr. Chairman: Do not make that kind of an accusation. That is unfair.

Mr. Callahan: Mr. Callahan is out of the penalty box with a short question.

Mr. Callahan: I want to clear up something, because I notice that in Hansard on January 26th, Mr. Gillies, in speaking of Mr. Rae, the leader of the third party, you indicated that Mr. Rae, in Brantford on Friday-"was that an appointment had been made between my assistant and the law firm to appear at the standing committee on public accounts and serve me with a writ at that time." you then went on to say, "I believe the leader of the third party, if indeed he made the comments referred to in the Brantford Expositor, owes me an apology for calling into question my word on this matter."

Have you taken any proceedings against the leader of the third party with reference to that statement you allege to be false?

Mr. Gillies: No, I am not particularly litigious by nature and I think Mr. Rae made his comments in a political context and I indeed refuted them in a political context. You have to have a pretty thick hide around here, you know.

Mr. McFadden: (Inaudible)

Mr. Morin: Just a very quick question. I fail to comprehend the following. Here is a statement made by Mr. Ross McClellan and he says, "But more than that it has been a matter of corridor gossip around the assembly for a number of days that Mr. Fleishmann intended to serve a summons at the meeting of the standing committee on public accounts. It has been a matter of knowledge to a number of members that this idea was being bruited about. On Monday of this week one of my colleagues said he had heard that Mr. Fleischmann intended to serve a summons on the member for Brantford at the public accounts committee meeting."

Mr. Callahan: Lyn was telling everybody.

Mr. Morin: Yes, everybody knows except you.

Mr. Gillies: I was--

Mr. Morin: Let me finish. "Ms. Artmont also is about to receive a summons." Just common sense would dictate to me that my first reaction would be to go and see my boss; "Hey, I am receiving a summons. What shall I do?" My response would have been, "Go and see a lawyer immediately."

Mr. Callahan: She let you down, Phil.

Mr. Morin: "And not only this, boss. I want to tell you that you are also being summoned." That would be my first response, and I fail to comprehend that she did not do that. She has obviously excellent qualities. She has served you for two years.

Mr. Gillies: She is very competent.

Mr. Morin: But let me tell you that if my executive assistant would do that to me, would not inform me that I am about to receive a summons, I look



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M-1555-3

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M-1600-1 follows

(Mr. Morin)

--would do that and she has obviously excellent qualities. She has served you for two years. But, let me tell you, if my executive assistant did that to me, would not inform me I am about to receive a summons--

1600

I look at this building as at a ship. I need all the sailors all the time. I hear all kind of gossip, all kinds of things. Let me tell you if my responsibility was to you, if you were my boss, was to inform you that you are being threatened by a summons. Can you explain why that did not happen?

Mr. Gillies: I guess you have raised two questions, the first one being as to Mr. McClellan's comment. I was just as stupefied as any other member when Ross said that in the House. If he had heard gossip to this effect days before, I sure had not and that is all I can say. In fact, I said to Ross after the House that day, "Good Lord, if you heard that rumour going around, you might have told me." I said it half-jokingly.

I had no indication and indeed had heard no such gossip that week which is unusual because I try to keep my ear pretty close to the ground around here.

The other point--I indicate to you again, you asked if it was unusual that we had been told we were going to be served with a lawsuit and I was not aware of it for a period of three days. My understanding of the facts are that we were not aware we were going to be served with a lawsuit. We were aware that a law firm wished to deliver a letter to me at some point during that week. As I say again, frankly the letter could have been about anything.

It did occur to me that Stikeman, Elliott were the solicitors for Mr. Fleischmann and that it might have been regarding that matter, but I had no knowledge whatsoever in advance of the fact that I was going to be served with a writ for libel.

Mr. Morin: I am just telling you what I would have done. and I respect you as a person. The moment I heard the rumour I would have called my legal counsel and said, could you find out what kind of letter I am being served, what kind of summons I am being served. I think it was the responsibility of Ms. Artmont to let you know that.

Mr. Sterling: She let Mr. McClellan know that.

Mr. Morin: It is the rumour I am talking about. Everybody knows it except him.

Mr. Gillies: With regards to Mr. McClellan's comment, I can only say the rumour mill let me down this time, because certainly I had not heard the rumour.

Mr. Bossy: Just a comment that I have to agree with Gilles and there seems to be some agreement, but we will be dealing with the entire situation and meeting with all witnesses. We are just trying to evaluate really what has happened here and look at Mr. Gillies' total absence from--I find it difficult to believe that from the time he arrived on Tuesday until he made the telephone call to his executive assistant on Thursday, whether he was in his

office during the entire day on Wednesday, an important matter such as, the term has been used, the serving of the letter to both of them really--your executive assistant had been told that she was also being served so she would have had concern--at no time between the Tuesday--we will just use the Tuesday, it was already known by her on Monday--at no time had she even mentioned it to you. I have sat back in the House and I notice you are very alert and the first to say ministers should be ashamed of not being aware, the Premier (Mr. Peterson) should be ashamed of not being aware, but when you have a serious matter such as this, Mr. Gillies, it becomes very hard--

An hon. member: It is not quite like that.

Mr. Pope: Do you run your life for two days worrying about a letters you are going to get?

Mr. Chairman: I am going to intervene for a moment here. I do not like to hear that kind of language in this committee. A member has a right to ask a question. As all members do, you are going to listen to it whether you like it or not. We do not need the heckling. Mr. Bossy, if you have a question, put it.

Mr. Gillies: Mr. Bossy, all I can say is those are the facts. I had no knowledge prior to Thursday that this matter was coming forward. The only knowledge I had from the pre-nine o'clock call on the Thursday was among the other things that may happen that--

M-1605 follows.



(Mr. Gillies)

Those are the facts. I had no knowledge prior to Thursday that this matter was coming forward. The only knowledge I had from the pre-nine-o'clock call on the Thursday was that, among the other things that may happen that day or the next days in the checklist we all go through with our staff one of those things, was that there may be a letter delivered by this particular law firm. I had no knowledge of the nature of the letter or, in fact, that the letter turned out to be a writ; and I had not knowledge specifically as to when this was going to be accomplished.

There appears to have been a communication breakdown on this matter, and I agree with you. All I can tell you is that we did not attach a great deal of importance to this particular matter at the time.

Mr. Bossy: A further question, and it relates to--

Mr. Gillies: (Inaudible)

Mr. Bossy: The linking--and you have made a statement, and I would like to ask a question on the basis of your saying that it is coincidence, and that goes back to October what transpired and then again the serving of this letter to you related to the public accounts committee sitting on Thursday. But, would you agree with your executive assistant's affidavit laying out that every attempt was made to meet with yourself and your EA on Monday, on Tuesday, on Wednesday, and at all times here the indication was then to find out when your schedule could accommodate it, so that had you been available on Monday, the question was asked or it was brought about that they would serve you on Monday had you been available, but you were in Ottawa?

Mr. Gillies: Well, all I can say, Mr. Bossy, is that my understanding--and again I guess you could ask Ms. Artmont, Mr. Clamp--my understanding was that she gave the four-day schedule so that these people if they wanted to give me this letter would know where I was going to be. I will readily admit, because I was out of the city for a day and a half out of the four and I was going to be in committee or the House for a great deal of the balance of those four days that I was not going to be the easiest person to reach that week; but my understanding is that every effort was made to transmit the schedule and to accommodate the caller.

Mr. Callahan: I just want to clarify one point. Mr. Gillies indicated that we had no information and yet, Mr. Gillies, if you have read over--and I am sure you have--Ms. Artmont's affidavit, she starts out by talking about a letter and in the final paragraphs which are 18, 19 and 20, she said, "The man did say he did not wish to disturb Mr. Gillies."

Then she goes on to say, "I did not advise the man that Mr. Gillies and I could be served during the meeting of the committee, nor was I asked whether this could be done."

"Following the telephone conversation with the man, I did not know that he intended to serve Mr. Gillies and me with a statement of claim."

When she was served herself in this committee room, did she not say to you that it is a libel suit?

Mr. Gillies: When I saw the document it was readily apparent to me and to her what it was.

Mr. Callahan: Had she been served prior to you, do you know, or was she served after you?

Interjection.

Mr. Callahan: And if that is the case, how would she know it was a libel suit unless she had prior knowledge?

Mr. Gillies: Well, I think the gentleman told her. The man came in at the back of the room and whether he had, in fact, given her her copy of the papers or not, I do not know, but I think enough of a conversation had taken place at that point, Mr. Callahan, that she knew what it was.

Mr. Callahan: Well, there is nothing in her affidavit that indicates that she was told by anyone that it was a libel suit, but simply at paragraph 15--

Mr. Sterling: If you read the server's affidavit--

Mr. Callahan: Just a second. Well, you are denying the server's affidavit. Just a second. In 15, she says, "When Mr. Gillies came over to us the gentleman asked if he was Mr. Gillies."

Mr. Chairman: I would just point out, Mr. Callahan, the next witness is the person whom you are talking about and it seems to me rather than asking this witness what she knew or when she got served, you would want to ask the person herself.

Mr. Mancini: I have one request before, Mr. Gillies.

Mr. Gillies: My problem, Mr. Callahan, is I do not know what immediately preceded my going to the back of the room so I cannot be very helpful.

Mr. Chairman: Okay.

Mr. Mancini: I was wondering when Mr. Gillies could give us a copy of his agenda for that particular week and a copy of whatever logs that you have and Ms. Artmont has as to incoming calls.

Mr. Pope: Absolutely not.

Mr. Chairman: Excuse me. The witness has agreed to do this earlier this afternoon and he said that if it were possible he would make those things available this afternoon.

M-1610-1 follows.



1610

Mr. Chairman: Excuse me, the witness has agreed to do this earlier this afternoon and he said if it were possible, he would make those things available this afternoon.

Mr. Gillies: I do not recall having committed to a list of phone calls.

Mr. Chairman: No, I think to be specific, he indicated that they do not keep a log in his office, which would be the case in most members offices.

Mr. Gillies: What we have and I certainly do not recall earlier saying that I would give a list of phone calls. I did say that I would be glad to give the committee my schedule for that week and I will do so and I will try to get it to you very shortly after I leave the room.

Mr. Mancini: And whatever logs that you may have.

Mr. Gillies: As I said, in the case of a phone log. I do not know there would be an awful lot of things on our phone logs in the course of a week which have nothing to do with the committee proceedings, Mr. Chairman. I would be guided by you.

Mr. Chairman: I would be reluctant to do anything more than what you have done and that is ask him if he is prepared to provide you with whatever kind of information he has. Speaking personally, if somebody asked me for a list of who phoned by office or what telephone calls I made on any given day, I would most jealously guard my right to do that in private. That is not a matter of public record. There would be people who would not want to have a list given out. I think we have to respect that.

Mr. Callahan: That makes eminent sense, Mr. Chairman, but certainly it can be accommodated by Mr. Gillies simply providing us with those telephone calls that are relevant to this particular issue.

Mr. Chairman: I think Mr. Gillies has the drift of what you want and if he has such information and chooses to make it available to you, fine and dandy, you will get it. If you are asking somebody such as me who called me a month ago, I could not give you that list. I am just pointing out to you it might be a little difficult to get it.

Mr. Gillies: All I can really do is I want to co-operate as best I can. I caution you the only log we keep on our computer, in other words messages. We have a list of messages that required a response from me. I can certainly go through those and see if any of them are relevant to this matter, but in terms of phone calls just coming in that are responded to right then and there by myself or a member of my staff, I am not sure that such a list exists.

Mr. Mancini: I do not want to press the matter, because there is some objection. Possibly as we go along this information could be seen in camera by a subcommittee. I do not want to press the matter right now because I do understand the concerns that you have brought up but I think it is very important to get a handle on who was calling who because the affidavits as submitted by Ms. Artmont and by the process server are in complete



contradiction. We have Mr. Gillies, and there is no reason not to believe Mr. Gillies, he has sworn the oath when he took his office and there is no reason not to disbelieve him, but it would be interesting to know how often he did speak to Ms. Artmont during those particular four days.

Mr. Chairman: I appreciate the point that you are trying to make but I think the overriding concern was each one of us would talk with a regular basis with people on our staff. That is a given. Someone who is an executive assistant to a member has ready access to the member. I do not keep records of when I talk to my legislative assistant.

Mr. Mancini: But he may.

Mr. Chairman: Well if he does keep records of that kind and he is prepared to make them available to you I will be surprised, but we will receive them gratefully. Any further questions?

I am assuming, Mr. Gillies, that you would be aware that the committee may at a future date invite you back and it may well be that near the end of this process if it turns out to be a lengthy one, you may in fact want to come back.

Mr. Gillies: Sure, I am at your disposal, Mr. Chairman.

Mr. Chairman: We have one other witness to be heard this afternoon. Do members want to take a five-minute break or do you want to proceed? I think we will recess for five minutes and then we will call the second witness.

The committee recessed at 4:15 p.m.

1620  
follows

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1620

Mr. Chairman: May I ask the clerk to swear in the witness.

Clerk: Do you solemnly affirm that the evidence you shall give to this committee, touching the subject to the present inquiry, shall be the truth, the whole truth, and nothing but the truth?

Ms. Artmont: Yes, I do.

Mr. Chairman: Ms. Artmont, we usually offer witnesses who appear before the committee, as you are aware, the opportunity to make some kind of an opening statement if you want to; otherwise, we will just go to questions.

Ms. Artmont: We might as well go to questions.

Mr. Chairman: Okay; any questions from anybody?

Mr. Mancini: Ms. Artmont, Mr. Gillies also did not have an opening statement, but we asked him to give a general review in his own words as to the circumstances of events that transpired over the last couple of months. I suggested that he start from November 5 or sometime around that date when he received a letter from the lawyers informing him that a lawsuit might be going forward up until the present. I was wondering if we could have the same courtesy from you, if you would in your own words just kind of review for us the situation from the letter of November 5 where Mr. Gillies was informed that there was a suit possible up until the present time, please.

Ms. Artmont: The first I ever heard from the law firm was on November 5. I received a telephone call that morning from a gentleman saying he was a journalist. He said he was writing a story about Mr. Fleischmann and the matter of Huang and Danczky and wanted some information. He said he had the press release--this is the press release which they have now proceeded to sue us on--and he wanted to know who wrote the press release. I asked him why he would ask such a question, and he said he just wanted to know. I said, "I do not think that matters; is there anything specific--"



...and he wanted to know who wrote the press release. I asked him why he would ask such a question; he said he just wanted to know. I said, "I do not think that matters; is there anything specific you want to know about it?" He said, "Did Mr. Gillies say these things in the House or in committee?" I said, "Yes, they have been said in the House; they have been said in committee." He asked about the letterhead it was on, and why it was on Progressive Conservative caucus letterhead. At this point, I was well aware I was speaking to a law firm, even though he had identified himself as a journalist. It was apparant.

Mr. Mancini: He did not give a name or anything?

Ms. Artmont: I think he said his name was Harrison, I think the last name was.

Mr. ??Mancini: What was the date of this phone call?

Ms. Artmont: November 5. He then asked me if this press release represented all the views of the members of the PC caucus because it was on their letterhead; I said, "No, all it does is signify that it is a press release put out by one of the members of the PC caucus."

I was called out of question period that afternoon by one of the reporters who said there had been notice posted in the press gallery saying that Phil and I were to be served that day with a letter of intent from Mr. Fleischmann. A number of reporters came up to us, four or five of them at that point, wanting comments--"Are you going to apologize"--and telling me about their conversations with Mr. Fleischmann. I think his name appeared at the bottom of it so they could contact him.

I went back over to my office so they could serve me, and when I got over there I received a phone call telling me that the whips' office had just been served; Ernie Eves had accepted it on their behalf. They were suing the entire caucus. I waited around for about half an hour or so, and then a young man came in and handed me the letter, and he asked me to take Mr. Gillies' letter for him also. I then went back over to the House and a security guard told me that there had been a young man with glasses who had been looking for Mr. Gillies and myself. I said it was fine, they had found us.

I do not believe we heard again anything about this matter--no, there was nothing else about this matter until I received the phone call on Monday morning, January 19, from a gentleman saying he was calling on behalf of the law firm Stikeman Elliott. He said he has a letter to deliver to Phil and I and could I give him our schedule; when would be the best time for him to come, sort of thing. I told him that I would be in my office all day long, and that he could come over and serve me today.

He said, "Is Mr. Gillies going to be there?" I said, "No, he is out of town, he is in Ottawa, but I will be glad to take the letter for him." He said, "I have to hand deliver it to him; how about Tuesday morning?" I said: "I will be in the office Tuesday morning, and all day. On Tuesday afternoon, I will be over at the House in the Legislature in the west lobby."

He said, "What about Mr. Gillies?" I said, "He is expected back sometime on Tuesday; he will be in question period." He said, "What time will he be arriving?" I said, "I cannot give you a specific time, but he is scheduled to be in the House later on in the afternoon, and we are always over there until about 4 o'clock in the afternoon."



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He said, "What about Wednesday morning?" I said: "Wednesday morning we will be in question period committee in room 223--there is a typo on the affidavit, it says 228, but it is room 223--and that the meeting usually goes until about 10:30; after that, we had another meeting in the same room, and that I expected we would be there for an hour or so after that, so he could be found in that room any time between 9:00 and 11:30."

He said, "Will Mr. Gillies be there?" I said, "He is scheduled to be in for both these meetings." He said, "What time will he get there?" I said: "I cannot give you anything specific; he is scheduled to be there. I assume he will show up, but I cannot say definitely. He said, "Where will you be in the afternoon?" I said, "In the afternoon, it is the same as yesterday afternoon; we will both be over at the House. We are there from 1:30 until 4 o'clock. I am in the west lobby; Phil is in the Legislature."

He then asked me about Thursday morning. I said: "Thursday morning we are both in public accounts in room 151. The meeting goes between 12:00 and 12:30; we are usually there till 12:30. In the afternoon, we will be in the Legislature again; I can be found in the west lobby."

M-1630 follows.

(Ms. Artmont)

...in Room 151. The meeting goes between 12:00 and 12:30; we are usually there till 12:30. In the afternoon, we will be in the Legislature; I can be found in the west lobby." He explained that he did not want to disturb Mr. Gillies and how would be the best way to get his attention? I said, "Whenever you come, find me and I can find him for you; I usually know where he is." He was going on about--this is when I was trying to get off the phone with him--this conversation carried on far too long.

1630

Mr. Mancini: About how long?

Ms. Artmont: I would say about 10 or 15 minutes because he was getting very detailed about what time will you be there, what rooms are you in, this sort of thing. Where did I leave off?

Mr. Morin: The conversation was going too long.

Ms. Artmont: Yes, I was trying to get off the phone with him, and he was saying, "Listen, I know Mr. Gillies to see him; how will I know you?" I said, "Just ask for me; ask a security guard, ask somebody around there. Most people know I am; if you ask for Mr. Gillies' assistant, they will be able to help you." He said, "Okay"--he thanked me for my time, and for being so co-operative, and that he would see me this week. That was the end of the conversation. Now do you want to know who I discussed this matter with?

Mr. McFadden: ??the next question."

Mr. Mancini: I would like just to keep going here for a while. Mr. Gillies and yourself were then served here in this room; what has really transpired since your were served until the present day?

Ms. Artmont: Since we were served?

Mr. McFadden: Since that morning.

Mr. Sterling: I understand--

Mr. Callahan: Have you crossed the floor, Norm, or what?

Mr. Sterling: Ms. Artmont is being sued, and I do not know what is relevant that happened since that time. She does not have the same privileges--

Mr. Mancini: One thing that has developed is she swore an affidavit; that is very relevant. I am asking some fairly general questions Mr. Sterling, please.

Mr. Chairman: Let me try to draw some lines here a little bit. I think perhaps it may be appropriate to do so. I would ask members of the committee to indulge the chair this much: the witness has been named in a suit. She has had the right of bringing counsel with her, and has not done so.

I anticipate that she has had some discussions, and as with Mr. Gillies--The events which transpired subsequent to the serving of the suit are perhaps better left, let me put it that way. You do not want to intervene in the civil process. For example, a member could simply say this is all sub

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judice, and I do not want to tell you anything. She could do that too. You could pursue ~~that~~ a bit, but you would basically have to accept that.

If you would just make your questions a little more specific, I think you would get us out of this problem. If there is something you really want to know, ask her, and I think she will attempt to answer it. Do not throw the broad brush, is what I am saying. I think you appreciate that there is a law suit under way here; she does not want to do obviously, something which would damage her own best interests in that law suit. If she had a lawyer beside her, the lawyer would whisper in her ear every two seconds, "Do not answer that," and you would have to accept it. Just be mindful of that, and I think we will have no problem.

Mr. Mancini: What I wanted to do--

Mr. Callahan: Excuse me, Mr. Mancini, I wonder if I could be of assistance to any witness--

Interjection.: I doubt it.

Mr. Callahan: Any witness is entitled to ask for the protection of the ??Ontario Evidence Act, in which case--and perhaps counsel can advise on this--the statements she makes are not usable against her in a civil action. I would inquire from the--

Mr. Chairman: You will find, Mr. Callahan, various opinions on that. The committee did a major report on that, so did the ??law reform commission. It is reasonable to assume that it is true, however, the deliberations of the law reform commission pointed out that there should actually be some changes to the Legislative Assembly Act to clarify that.

It was our recommendation that it would be the case, but we were mindful, as we studied that particular problem, that there was not unanimity on the matter, so the legal advice was somewhat conflicting. You may advise a client that way, and the client could take that advice, but as chairman of the committee, and as one who has participated in a study of that specific point in some detail, I would not be quite so bold in my advice to the client. I would hesitate to--

M-1635 follows.



(Mr. Chairman)

...client could take that advice, but as chairman of the committee and as one who has participated in a study of that specific point in some detail, I would not be quite so bold in my advice to the client. I would hesitate to advise her of that. It may be true; I kind of think it is true. The committee certainly recommended that it should be true, but we are also aware that the law reform commission is not quite gungho behind that position.

Mr. Mancini: Maybe I could just explain, for just a few seconds--instead of asking Ms. Artmont a number of laborious questions, one after another, I thought just a general five minute recap by yourself as to what took place would be helpful. I guess we could do it question by question. It was not as if I was trying to send out a wide net; I just thought it would be easier to do that instead of having 20 laborious questions.

Mr. Chairman: One laborious question.

Mr. Mancini: Maybe it is one laborious question; I accept that. Maybe that is what it is.

Mr. Chairman: I just think if you could be a little specific, you would assist the witness and the committee, that is all.

Mr. Mancini: Okay, we are up to the time then that you were actually served here in the room. That was prior to the adjournment of the committee. When the committee adjourned at around noon or thereabouts, did you go into consultation with Mr. Gillies?

Ms. Artmont: I do not recall doing so. What you have to understand is, I do not just simply work as Mr. Gillies' executive assistant.

Mr. Mancini: Yes, I am aware of that.

Ms. Artmont: I am a researcher with the Tory party, and I do write questions for the House and other members. I do so every day of the House. I think it is safe to assume I was writing a question over the lunch hour for one of the members. I was not with Phil.

Mr. Mancini: Okay, so what you are telling us is that between 12:00 and 1:30 you did not huddle with Mr. Gillies over all of the details of the situation, even though you knew he had to raise this matter, or even though you knew he intended to raise this matter in the House at 1:30 as a question of privilege, and therefore would have needed to get all of his facts together. He went ahead and prepared this information on his own without consultation with yourself?

Ms. Artmont: That is right.

Mr. Mancini: Did he then between 12:00 and 1:30 ask you why you had not given him more information when he discussed--was it Wednesday that the telephone call was made that we were referring to?

Mr. Bossy: Thursday.

Mr. Mancini: Oh yes, Thursday morning, when Mr. Gillies phoned you from his apartment around 9 o'clock in the morning he tells us, to ask for an update as to what is going on. Could you tell us before I ask the second

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question--I put the second question first--the type of conversation you had with Mr. Gillies at around 9 o'clock in the morning that particular Thursday before the public accounts committee actually started to sit?

Ms. Artmont: It was very, very brief. He called and said, "Huang and Danczky is coming before committee, can you make sure I have got my file there?" It is being said throughout the committee hearing, that I did not tell Phil because I did not remember to tell him. It was partially that; it did not seem--

Mr. Mancini: You were watching us on television, I take it.

Ms. Artmont: I was in the room. It was also that I chose not to tell him, because I did not think it was important.

Mr. Mancini: You chose not to tell Mr. Gillies what?

Ms. Artmont: About the telephone call with the gentleman.

Mr. Mancini: Excuse me, what did you tell him?

Ms. Artmont: On the Thursday morning, I briefly mentioned that he might be getting a letter from a law firm. He said I named the law firm, but I do not even recall naming the law firm to him. I said you are going to get a letter, probably today from a law firm. He said, "Shit, what is this one about?" We had received two of them. I said, "I am not sure." He said, "Do you think it has something to do with Fleischmann?" I said, "I am not sure, but I would not worry about it. It is nothing; forget about it it."

He was upset, and he was saying--he kept asking me more questions about it, "Are we bringing it today, are you sure they are bringing it today, what is it about?" I kept saying, "Do not worry about it, it is nothing. It is probably not Fleischmann, and if it is Fleischmann, they would not show up today, and they certainly would not come into committee." That was the extent of that conversation.

M-1640 follows.



(Ms. Artmont)

...don't worry about it. It's nothing. It's probably not Fleischmann and if it is Fleischmann, they wouldn't show up today and they certainly wouldn't come into committee."

1640

That was the extent of that conversation.

Mr. Mancini: Ms. Artmont, you had a 15-minute conversation on Monday, January 19, with someone who you knew to be a lawyer, who went over with you in great detail yours and Mr. Gillies' schedules, where you would be and where you would not be. They let you know at that time that they would be serving something. You call it a letter, someone else in a different affidavit calls it a writ or a lawsuit. You had this very lengthy conversation about a major issue that Mr. Gillies raised in October--

Ms. Artmont: When you say major issue, I did not think of this as a major issue. I thought of this as a nuisance. I thought of it as another letter of intent. It was nothing more than that. You are now saying it is a major issue because you know--

Mr. Mancini: --because Mr. Gillies has said it is a major issue. He raised the matter in the Legislature.

Ms. Artmont: It is, once you see what it is, but when you do not know what it is, it is certainly not a major issue. It is just another lawyer threatening you, basically.

Mr. Mancini: Let us just say that I beg to disagree with you. You received a letter in November and that was the letter outlining some kind of threat or intended steps they intended to take. Then you tell us that nothing else transpired over a couple of months, although Mr. Gillies did tell the committee earlier on today that just by chance he happened to mention this situation in passing, "Gee, isn't it funny that we haven't heard from these people." Then almost a week or two later, I guess, if he mentioned it just after Christmas it is a week or two later, you get this 15-minute phone call from someone asking you:

"Where is Mr. Gillies this morning? Where is he this afternoon? How can I get a hold of him? How will I know who you are? How will I know who Mr. Gillies is?"

These are very detailed questions that this person is asking you.

Ms. Artmont: All that the person was doing was trying to find us to service a letter. I have had it happen to me twice before now. I have also had two phone calls from other lawyers threatening me with similar things. It was not that unusual. I am sure it is unusual for the other offices, but it is becoming a regular occurrence in our office.

Mr. Mancini: You are telling us then, in your conversation of Thursday morning, January 22, that you chose not to tell Mr. Gillies. I am not sure what you chose not to tell him because you tell us that he asked you a lot of questions about what was happening and then you tell us you chose not



to tell him, but I am not sure what you chose not to tell him.

Ms. Artmont: I had been choosing not to tell him up until that point.

Mr. Mancini: That was from Monday to Thursday?

Ms. Artmont: Yes. There were some opportunities. Probably Wednesday was actually the first time I could think of that I saw him and would have had the opportunity to do so and I did not. I did not do so because I could not see getting upset and worrying about something that might be nothing.

Mr. Mancini: Why did you choose to tell him Thursday morning?

Ms. Artmont: Thursday morning I thought, "I'll just mention it to him", and when I saw how he reacted, I backed away. I started saying to him, "It's nothing. Don't worry about it." I did not want him upset and worrying about it coming in for the committee.

Mr. Mancini: I have known Phil Gillies for six or seven years now and he is a very aggressive member in the Legislature and very capable of defending himself. I find it very odd that you would have an important telephone conversation on Monday, have a 15-minute discussion with a lawyer whose firm you have had contact with because they served a letter back in November and then tell the committee that you chose not to tell your boss until Thursday because you did not want to upset him.

Ms. Artmont: That is right; that is how I operate. You are saying it is an important phone call; I am saying it was not an important phone call. It was simply another nuisance letter of intent that I was going to be getting. I would suggest to you that your staff probably does similar things. I am sure your staff does not run to you with every...

1645 follows

(Ms. Artmont)

...another nuisance letter of intent that I was going to be getting.

I would suggest to you that your staff probably does similar things. I am sure your staff does not run to you with every single thing that might or might not happen that might get you upset. I am sure they keep a lot of things from you that you are not aware of. I do not know of other members' staff who do not protect their members at different times. There are so many people who want a piece of you and so many people who want things from you that you are always protecting them from things.

Mr. Mancini: Lyn, I understand what you are telling us and you are probably correct. There are a lot of nuisance things that staff may or may not keep away from us, but with all respect, this was not a nuisance call.

Ms. Artmont: It is not now, but it was then. You now know it is a \$2.7 million lawsuit. I never thought for one moment that letter of intent was going to go past that stage. I thought the time frame had run out. Everyone in this place had told me it would never go past the letter stage. I did not expect it.

Mr. Mancini: You chose for four days not to tell your boss of the conversation because you felt it was a nuisance phone call and from your own very words you were just trying to protect him and keep him away from something that might cause him to be upset about.

Ms. Artmont: If I had to do it again, I still do not think I would have told him. What I probably would have done is get in touch with a lawyer and get some advice on this, get the lawyer to give us an opinion as to what we should do and then decide whether or not to discuss it with Phil.

Mr. Mancini: What did you mean when you were quoted in the Globe and Mail of January 23? It says: "Ms. Artmont told reporters last night that she had told Mr. Gillies, 'I don't think they'll be stupid enough to come into committee. Obviously, I underestimated them.'"

Ms. Artmont: I said that to you when you asked me about our conversation on the Thursday morning, when he started asking me: "Is it Fleischmann? Are they coming today? What's this all about?" I said, "Listen, it's probably not Fleischmann. Don't worry about it. It's nothing, and if it is Fleischmann, they sure as hell wouldn't come into public accounts."

When you are reading that comment, what you have to understand is the added part, "Obviously, I underestimated them", was said on the Thursday evening to a reporter after I realized what had happened. It was said after the fact, after we already knew what took place. In other words, they were stupid enough to come into public accounts.

Mr. Mancini: You get around the buildings quite a bit and you are usually in touch with a lot of the gossip that is going on from one end of the building to the other because of your capacity as a research officer for the Progressive Conservative Party.

Do you know what Ross McClellan was talking about when he was quoted in Hansard on January 22 at page 4802? He stated, "But more than that, it has

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been a matter of corridor gossip around the assembly for a number of days that Mr. Fleischmann intended to serve a summons at the meeting of the standing committee on public accounts"? There is further, but I will just stop there.

Ms. Artmont: I have never spoken with Ross about the matter myself, but what you should also remember is two reporters also received phone calls and were being served. I did discuss this matter with a couple of people.

Mr. Mancini: Who were they?

Ms. Artmont: I contacted Doug Arnott on the Wednesday. Actually, I should go back. On Tuesday afternoon, the first person I spoke to about this matter was one of the reporters from the Toronto Sun who asked me if I had heard from a law firm and I said yes. We compared conversations.

Mr. Mancini: What day was that?

Ms. Artmont: Late on the Tuesday afternoon, after question period. The conversations were very similar. She asked me if I knew when they were coming. I said, "No, I gave them a four-day schedule", and she said, "I did the same thing; he is coming up to serve me on Thursday morning."

She asked me if I knew what this was all about. She said, "Didn't you already get served?" I said, "Yes, I did." She said, "So did I." We were now discussing whether this was Fleischmann since it was...

1650 follows



She asked me if I knew what this was all about. She said, "Did you not already get served?" I said, "Yes, I did. She said, "So did I." We were now discussing whether this was Fleischmann since it was both of us getting the phone calls. She said, "Why did they come up again?" I said: "I do not know. Maybe this time now they bring you a letter and tell you they are going to proceed, or they are going to cancel it, or they are going to tell you how much money they want. I am not sure."

1650

Mr. Mancini: Did you seek legal advice at any time between Monday and Thursday?

Ms. Artmont: No.

Mr. Mancini: Did you ever think about it? Did it not cross your mind as something you should do?

Ms. Artmont: It crossed my mind the minute Phil and the process server looked at me as to what the hell do we do with this thing now that they were trying to serve Phil. I realized at that point I should have called a lawyer.

Mr. Mancini: Mr. Clamp claims in his affidavit that he read the style of cause of the action to you over the phone, which would have given you an indication as to what document he was actually serving you with.

Ms. Artmont: I have no recollection of him doing that. The reporter I spoke to also was not aware of what he was serving. I suggest that he did not do what he said he did in the affidavit.

Mr. Mancini: That is all for now.

Mr. McFadden: The affidavit of ~~Mr.~~ Mr. Clamp states that he phoned you on Tuesday, January 20. According to this, he says that he telephoned you and entered into a conversation about wanting to serve some legal documents. You state that this conversation took place on Monday, January 19.

Ms. Artmont: Yes, it did.

Mr. McFadden: You are certain of that date.

Ms. Artmont: Yes.

Mr. McFadden: Did you speak to him on Tuesday, January 20?

Ms. Artmont: No, I did not.

Mr. McFadden: Are you aware of anybody in your office he spoke to on Tuesday, January 20?

Ms. Artmont: No.

Mr. McFadden: Are you aware of anybody in the building he may have spoken to on Tuesday, January 20--that has come to your attention? I know that

is hearsay but perhaps--

Ms. Artmont: He very well may have spoken with one of the Sun reporters.

Mr. McFadden: But not to you.

Ms. Artmont: He certainly did not talk to me on Tuesday.

Mr. McFadden: Just to be absolutely sure, from the time on Monday, January 19 until the Thursday morning, you did not speak to Mr. Gillies about this matter either directly, indirectly in passing, or in any other way?

Ms. Artmont: Only on the Thursday morning.

Mr. McFadden: Only on the Thursday morning. That was before nine o'clock, approximately, that morning.

Ms. Artmont: Yes.

Mr. McFadden: Did you speak to Mr. Gillies again about this matter between the time you described on the telephone and the time a process server appeared and served Mr. Gillies?

Ms. Artmont: No.

Mr. McFadden: With regard to the process server, can you describe exactly what happened here in this room with this process server? He arrived that morning. Where did you sit?

Ms. Artmont: I was at the very back of the room on the left-hand side. As is often the case when you are sitting in committee, you notice everyone who walk in; the door makes so much noise.

Mr. McFadden: Were you sitting in the back of the room?

Ms. Artmont: At the very back. I noticed him sitting there. He was there for quite some time, I believe.

Mr. McFadden: You noticed him. Did you note at the time he was a process server? You just noticed this individual.

Ms. Artmont: I thought he was from the ministry. There were a lot of people from the Ministry of Housing in that day and he was rustling through papers. He got up, he seemed really very confused and then he came over to me. I said, "Are you looking for someone?" He said, "Yes. Are you Lyn Artmont?" I said I was. He said, "I have something to give to you." He gave me all those documents. I starting going through them and then I started writing a note quickly to the clerk of the committee and to the chairman to try to find out what I should do.

Mr. McFadden: Could I stop you there? Did he identify who he was at that point? Did he say he was Mr. Clamp, Mr. Patton or any other name?

Ms. Artmont: No, but he said--

Mr. McFadden: He just handed you a bunch of documents.

Ms. Artmont: He handed me the things and then, as I sat there madly writing out a note to ask the chairman what I should do, he said, "I have something to show you." I said, "Oh, do you mean me to sign something?" Because I thought maybe I had to sign that I had received the papers. He said, "No, no, I have something to show--"

M-1655 follows



(Ms. Artmont)

...madly writing out a note to ask the chairman what I should do.

He said, "I have something to show you." I said, "Do you need me to sign something?" I thought maybe I had to sign that I had received the papers. He said, "No, no. I've got something to show you," and he took out one of the government cards that we all have so we can get into the buildings after hours. It was from the Ministry of Community and Social Services and it had his picture on it. He showed that to me.

Mr. McFadden: Does that show he is an employee of the government? I do not know. Who typically gets those cards?

Ms. Artmont: I know I have one.

Mr. McFadden: You have a card. It is similar to a card that you have. His picture was on that card.

Mr. Chairman: Are you saying that he showed you an identification card that he was employed by Community and Social Services?

Ms. Artmont: Yes.

Mr. Chairman: Then he served you documents?

Ms. Artmont: No, he had already handed me the papers.

Mr. McFadden: It was after he served you the documents.

Mr. Chairman: He served the documents first and then he produced this identification card.

Ms. Artmont: He said, "I have something I want to show you."

Mr. Morin: For what reason?

Ms. Artmont: I do not know. I thought that maybe they had to show identification of who they were.

Mr. Chairman: Could I just interject for a minute? This is kind of interesting. Did the person who served you the documents show you any personal identification as to who he worked for or his ability to serve you these documents?

Ms. Artmont: No, all he showed me was a Ministry of Community and Social Services card with his picture on it.

Mr. Chairman: That was an interesting way to identify himself.

Mr. McFadden: Did he at any time show you a card or a letter from Stikeman, Elliot?

Ms. Artmont: No.

Mr. McFadden: Did he show you a card or letter from his employer,

Metro Process Servers Ltd.?

Ms. Artmont: No.

Mr. McFadden: So the only card he showed you was a card that is commonly given to government employees to give them access to this building or other government buildings after hours and so on?

Ms. Artmont: That is right.

Mr. McFadden: What happened after he showed you this government identification? You then passed on this message to the chairman of the committee?

Ms. Artmont: Yes. I went up and gave the chairman and the clerk a message saying, "Someone is here, serving me with a libel suit and he's got one for Phil. Can the committee continue and can Phil be served?" I left it with them and I went and said to Phil, "There's a gentleman back here who wants to see you." Phil came to the back and he said to Phil, "Are you Phil Gillies?" He said, "Yes," and he handed him the papers. I said, "Phil, this is a libel suit." Phil said, "I can't take this", and tried to hand it back to him. Then Phil was saying, "You know you can't serve a member when the House is in session. You shouldn't be here."

Mr. Morin: Phil said that?

Ms. Artmont: Yes.

Mr. Morin: He said you cannot serve a member.

Ms. Artmont: He said, "I don't think you should be doing this sort of thing." He was sort of rambling on and trying to decide what he should do with it. Then they both looked at me and I said, "Take it and we'll find out if it is legally served later." So he did and the process server left.

About half an hour later, he came back and asked me if I would help him find ??Pauline Comeau. I said, "Go up to the press gallery." He said, "I've been up there and Mr. ??Ganley said she is doing a press conference." I said, "Well, that's just down the hall." He said, "I can't find the room. Can you help me?" So I said all right.

I walked down the hall with him and said, "It's right there; there is the room." He said, "How am I going to know her?" I said, "I don't know." He said, "I'm not sure. Are there going to be a lot of people in there?" I said, "Come with me." I opened the door and there was no one in there. I said, "Listen, there's nobody here." He said, "Well then where should I find her?" I said, "I haven't got any idea." He said, "What do you think I should do?" I said, "I don't care. Go wait upstairs for her." He left.

Mr. McFadden: So you tried to assist this gentleman the best you could, notwithstanding--

Ms. Artmont: For some unknown reason, yes.

Mr. McFadden: Have you ever been sued before?

Ms. Artmont: No.

Mr. McFadden: Have you had any legal training?

Ms. Artmont: No.

Mr. McFadden: So this is a new experience for you.

Ms. Artmont: It is brand new.

Mr. McFadden: You started big in this case.

Ms. Artmont: I like to start with the large amounts.

Mr. McFadden: It is historical, too. I have no further questions.

Mr. Callahan: There is no question that this is a very trying situation for you, I am sure, Ms. Artmont. I would like to go back and inquire. Mr. Gillies was in Ottawa. Did he call in for...

1700 follows



(Mr. Callahan)

...a very trying situation, I am sure, Ms. Artmont. I would like to go back and inquire. Mr. Gillies was in Ottawa, did he call in for messages--or, first of all, does he have another executive assistant besides you?

1700

Ms. Artmont: No, he does not.

Mr. Callahan: You are his only executive assistant.

Ms. Artmont: ??Yes.

Mr. Callahan: And when he is on the road like that and he calls in for messages, does he call in to you, the executive assistant?

Ms. Artmont: No.

Mr. Callahan: Who does he call in to?

Ms. Artmont: He calls his secretary.

Mr. Callahan: Does he ever call you?

Ms. Artmont: It depends. If I pick up the phone, he will ask me for messages, but I do not believe he phoned in.

Mr. Callahan: Let us deal with the specific times. He was in Ottawa on Monday night.

Ms. Artmont: Yes.

Mr. Callahan: Did he call in to you? Did you speak to him on Monday at all?

Ms. Artmont: I did not speak to him on Monday at all. I did not see him until Tuesday. I was over at the House. That was the day that I had found out Exploracom had received their letter and I wanted to do it before the government made a statement the next day, so I had found another member to brief because I did not know if Phil would be there and then Phil came sort of running in once question period had begun and I briefed him on what his question would be, what had happened at Exploracom, and he went in. That is the first time I had seen him.

Mr. Callahan: You have indicated in response to Mr. McFadden, you have never been sued before. That is true, isn't it?

Ms. Artmont: ??Yes.

Mr. Callahan: You have never had an experience like this before in your life?

Ms. Artmont: Just in recent days, I have had letters of intent and--

Mr. Callahan: Well, I am not terribly excited about what is

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happening recently, but up to this point you have never had that experience.

Ms. Artmont: No.

Mr. Callahan: So when you received the letter of intent back in October or November, did that cause you some concern?

Ms. Artmont: I think if you read my comments in The Toronto Sun the next day, it will give an indication of what I thought about it.

Mr. Callahan: What did you say in The Toronto Sun the next day?

Ms. Artmont: I said that I had no intention of apologizing, and I thought it was all staged by someone in the Premier's (Mr. Peterson) office.

Mr. Callahan: Then I gather that it never bothered you after that point then.

Ms. Artmont: No.

Mr. Callahan: Do you have a copy of that notice of intent.

Ms. Artmont: Yeah, I would think so.

Mr. Callahan: Could you provide one to the committee, the notice of intent you received?

Ms. Artmont: I think I sent it on to our lawyers so I would have to get the copy back from them.

Mr. Callahan: When did you send it send it on to your lawyers?

Ms. Artmont: H'm, after we had been served with--We obtained a lawyer that evening, on the Thursday evening.

Mr. Callahan: This is the 22nd?

Ms. Artmont: Yes.

Mr. Callahan: You are not talking about--You did not do anything with the letter--

Ms. Artmont: Of intent.

Mr. Callahan: --back in November when you got it?

Ms. Artmont: We did nothing.

Mr. Callahan: You just made the comment to the Sun. And, did it ever cross your mind again after that, or did you just consider these to be a nuisance?

Ms. Artmont: I never expected it to proceed.

Mr. Callahan: Well, did you consider it--You keep referring to it as a nuisance. Is that the way you viewed this letter of intent, as a nuisance?

Ms. Artmont: That sums it up. ??Yes.

Mr. Callahan: The letter of intent, as I recall, would have on it to the effect that if you do not apologize further action would be taken or you would be sued or words to that effect. Is that not right?

Ms. Artmont: Yes.

Mr. Callahan: That did not frighten you.

Ms. Artmont: No.

Mr. Callahan: And this was the first instance you had ever had of being sued, and you were cool enough that it did not bother you.

Ms. Artmont: What you have to remember is, h'm, once it happened, numerous reporters talked to me about all the times they had received letters of ??intents and most of them had said: "It has happened to us dozens of times. This thing never goes any further." Even the reporter in the Sun when she wrote her column that day pointed out this was a letter of intent, and they usually never go any further than that; so I had no personal experience, and yet everyone I met at Queen's Park was saying, "Don't worry, this won't anywhere."

Mr. Callahan: I have to conclude from that statement that you were worried when you first got it because why would these people be telling you not to worry.

Ms. Artmont: No. Not necessarily.

Mr. Callahan: You must have discussed it with them with some concern and not--

Ms. Artmont: No, I did not have to discuss it with any one of them with any concern. It is sort of a thing, once it has appeared in the newspaper, everybody comes up to you and comments on it. I did not run out seeking people's advice and, oh, I am so worried about it. That is not how it happened.

Mr. Callahan: Well then, why did they say to you, "Don't worry about it"?

Ms. Artmont: I have no idea why people would say what they say to me, but that was the usual comment.

Mr. Callahan: You have told us that you did not seek legal advice. Did you talk to anyone in the Tory caucus about the letter of intent, or did you just put it in your purse and leave it there.

Ms. Artmont: The next day we had a meeting in the leader's office and...  
M-1705-1 follows.



(Mr. Callahan)

--talks about the letter of the 10th, or did you just put it in your purse and leave it there?

Mr. Artmont: The next day we had a meeting in the leader's office and I believe Mike Harris was there but I am not positive of that. Phil and I were there and a couple of the leader's staff. The question was, "Do we want to do anything? Do we need legal counsel? Do we need to make our position clear?" All I remember the leader saying was, "I think Lyn has made her position quite clear in the paper. I do not think we need to clarify that anymore for anyone else." The advice and the general feeling in that room was, "Leave it alone, it is never going to go anywhere, forget about it."

Mr. Callahan: I gather there were no promises that if it did go any further that you would be protected or anything of that nature? You have never anticipated that have you?

Ms. Artmont: No.

Mr. Callahan: Not to add any promises that you would be protected if a suit went on?

Ms. Artmont: No.

Mr. Callahan: We understand from Mr. Gillies, and you were in the room at the time the question was asked, I had originally asked him if he sought legal advice and he indicated that he had from Mr. Julian Porter and then he corrected himself and said that was dealing with the Caplan matter. Were you familiar with that earlier letter of intent?

Ms. Artmont: Yes, I was.

Mr. Callahan: Were you around when he called Porter?

Ms. Artmont: I was not involved with the telephone conversation but that was our first letter of intent. My feeling was we had made a mistake and we should apologize and we were then finding out how to proceed.

Mr. Callahan: Okay, but he had conversation with Julian Porter. We understand it was about a 10 to 15 minute conversation and that he got I suppose a primer in what liable actions are all about in legal terms. Did he discuss with you what he had spoken about with Mr. Porter? Did he give you a primer?

Ms. Artmont: Basically all we talked about was when we felt we had made a mistake what was the best course. Was it to make an apology or was it to try to wait it out and see if they will go any further. The advice we were given, again by a number of people, was, "Forget about it, it will not go any further." He was saying that to Julian Porter. "Basically what is your advice?" Porter's advice was, "You know you have made a mistake, apologize."

Mr. Callahan: You did discuss then what Porter and he talked about in terms of the procedure that is followed in a liable suit.

Ms. Artmont: I do not believe I ever discussed that with him.

Mr. Callahan: Have you had any discussions with Mr. Gillies about

this matter between January 22, and today?

Ms. Artmont: Of course.

Mr. McFadden: Mr. Chairman, I think that is dangerous.

Mr. Callahan: I am not asking her what the content of the discussion is, I am simply asking her if she had any discussion. She has answered the question. She said, yes.

Ms. Artmont: We have a \$2.7 million lawsuit.

Mr. Callahan: I would be surprised if they had not discussed it.

Mr. Chairman: I know it would be a little unbelievable that somebody being employed is precisely the question, discussed this once or twice in the last month, yes.

Mr. Callahan: Just to go back. Mr. Gillies told us that you discussed this matter, this letter of intent and what was going on with it in December. Do you recall that?

Ms. Artmont: Yes, I do.

Mr. Callahan: Is this something that you just recall now or did you know about that before?

Ms. Artmont: The conversation I recall was--I do not know who initiated it, but we commented why we had never heard from Fleischmann again. I assumed this matter had dropped and I believe Phil told me the time limit had expired that you could not proceed any further. I said, "Are you sure about that?" He said, "There has to be a time frame. They cannot hold things like this over your head forever. I am sure it is 60 days."

Mr. Callahan: My question to you was not in reference to that, it was whether or not you just became aware or recollected that December conversation today as a result of hearing Mr. Gillies evidence or did you remember that say yourself, prior to that?

Ms. Artmont: It was in the back of my head that at some point someone had told me the time frame had expired on Fleischmann's suit.

Mr. Callahan: I am sorry, I am talking about this discussion in December.

Ms. Artmont: That is the discussion in December.

Mr. Callahan: Did that just come to your mind when you heard Mr. Gillies give his evidence or did you know about that when you were in the lawyer's office giving the affidavit that you gave?

Ms. Artmont: No, I do not recall if I remember--  
M-1710-1 follows



(Mr. Callahan)

...did you know about that when you were in the lawyer's office, giving the affidavit that you gave?

1710

Ms. Artmont: I do not recall if I remember when I was--I am not sure.

Mr. Callahan: But you did not tell the lawyer about it because it is not in your affidavit?

Ms. Artmont: There are a lot of things that are not in my affidavit.

Mr. Callahan: Tell us what is not in your affidavit. You say there are a lot of things. What is not in your affidavit that is relevant here?

Ms. Artmont: I did not discuss the process server coming back and asking me to help him find Pauline Comeau.

Mr. Callahan: Was that after you had been served and after Mr. Gillies had been served?

Ms. Artmont: Yes.

Mr. Callahan: I am not terribly interested about that. But is there anything you have left out of the affidavit that occurred between Monday and Thursday? Or is everything in that affidavit between Monday and Thursday?

Ms. Artmont: We based our affidavit on the affidavit that Rex Clamp had done. My discussion with Phil on the Thursday morning was discussed with the lawyer. He set this up so that we were responding to what they were saying

They did, first, their recollection of the telephone conversation, then second, the other gentleman's recollection of serving me. We did exactly the same.

Mr. Callahan: I note in paragraph 16 that you state under oath that you read the affidavit of Mr. Clamp of January 22 and you have indicated you did not speak with anyone from Mr. Clamp's office on January 20.

Ms. Artmont: That is right.

Mr. Callahan: What you are saying is that his affidavit in is fact bunk. Is that what you are saying, that he is lying?

Ms. Artmont: No, I would not go that far. What I am saying is, this gentleman, I assume, does this for a living. He sits on the phone for eight hours a day, phones people and sets up appointments. I assume that what he has done--it must very difficult when you have a law firm that is not going to take responsibility for what has happened and they are dumping on him, and the man is madly trying to construct something that would seem to take the responsibility away from him for what had happened. He has probably been confused. He could very well have spoken to one of the reporters on the Tuesday, or he just simply cannot remember because this is what he does all day long. I do not think he would deliberately lie.



Mr. Callahan: That is very kind of you, but I suggest that it stares you right in the face. What you are saying is that Mr. Clamp's affidavit is totally erroneous. That ??it is a lie. He swore it under oath. Is that what you are saying?

Ms. Artmont: He did not speak to me on Tuesday.

Mr. Callahan: Did Mr. Clamp ever speak to you?

Mr. Chairman: I am going to intervene here. I am uncomfortable with the use of the word "lie", which is unparliamentary. I would like you to rephrase your questions just a little bit. It seems to me you are quite in order to ascertain whether you think there is a difference of opinion here, a difference of fact. There is certainly, to state the obvious, between the two affidavits there are certain discrepancies that are difficult to reconcile, if I can put it that way.

You are trying to put words in the witness's mouth and I would appreciate it if you would not do it. I think she can speak for herself quite nicely.

Mr. Callahan: I would strain for a word to replace "lie".

Mr. Chairman: Yes, I know.

Mr. Callahan: But the affidavits are so contradictory that is really the only way. I will try another word, "prevaricate".

Mr. Chairman: Even without a dictionary that one does not fly either.

Mr. Callahan: I should tell you, Mr. Chairman, it is the same word as "lie".

Mr. Chairman: I know it is, yes.

Mr. Callahan: All right, you will agree with me, Ms. Artmont, that on the most sympathetic level, your affidavit says that the facts as stated by Mr. Clamp in his affidavit are not correct?

Ms. Artmont: What Mr. Clamp may have done, and again I do not know if I should be speculating about what somebody else may have done--

Mr. Chairman: Probably not.

Ms. Artmont: He very well could have thought Thursday was the only day he had to mention and he did not bother to mention that I had given him schedules for Monday, Tuesday, Wednesday, because it did not seem important to put it in the affidavit. I have no idea what he is thinking. You are going to have to ask him tomorrow.

Mr. Callahan: Okay, as I understand your evidence, and we can check this in Hansaard, but you made a statement that this fellow talking to you who you say was from Stikeman, Elliott, said, "I know Gillies to see him." You did say that, did you not?

Ms. Artmont: Yes, he said, "I am sure I would know Mr. Gillies if I

saw him."

Mr. Callahan: Okay, I would like you to take a look at your affidavit, in fairness, so we can

M-1715-1 follows

(Mr. Callahan)

from Stikeman said, "I know Gillies to see him." He did say that, did he not?

Ms. Artmont: He said, "Yes, I am sure I would know Mr. Gillies if I saw him."

Mr. Callahan: I would like you to take a look at your affidavit--in fairness--so we can point out--

Ms. Artmont: Paragraph 8.

Mr. Callahan: Obviously I have got myself in a box. I am sorry. At least you recognize that I am humble enough to admit that I had made a note. I thought I made--

Mr. Chairman: ??You have a lot of reason to be humble. Proceed.

Mr. Callahan: I thought I made the note that I did not know Gillies to see him, but in your affidavit you state that he did.

I would like to go to the question of Mr. Gillies--

Mr. Warner: Now he is fishing in the shallow end of the pond and falling into the moat.

Mr. Callahan: No, only you would fish in the shallow end of the pond, because you are--

Interjection.

Mr. Chairman: Never speak disparagingly of fishermen. That is a good role to remember.

??Mr. Warner: That is true.

Mr. Morin: That is for sure.

Mr. Callahan: I would like to go back to the question. You told us that Mr. Gillies was upset the morning you called him at his apartment. You called him, did you not?

Ms. Artmont: No.

Mr. Callahan: He called you. He was upset. Was it clearly obvious that he was upset? Maybe you can tell us how you perceived that he was upset.

Ms. Artmont: Because he continued to ask me about it, like: "What is it about? What is going to happen? Who is coming," and that sort of thing. So I perceived him as being a little upset.

Mr. Callahan: What about his voice? Did his voice indicate that he was upset?

Ms. Artmont: No, I do not know. I do not really recall it.

Mr. Callahan: It certainly created a perception on your part that he



was upset. You have told us that.

Ms. Artmont: Yet, you were in here when Mr. Gillies gave his evidence. It is my recollection--and I guess everyone can take his own perception from it--he indicated that he was not upset at all, that it was a very brief conversation and it was something that just really did not mean much to him. Is he not accurate? Are you more accurate or is he more accurate? Which is it?

Ms. Artmont: I perceived him as being upset, because normally he does not question a lot of things like that. He has obviously testified that he was not upset. It is an interpretation.

Mr. Callahan: He has done a little more than that, in fairness, Ms. Artmont. He actually left me with the impression that the conversation was one which accomplished a number of things, this being the least important of those items that you were going to give him, the fact that he was in a rush and it was a very brief, quick conversation.

Ms. Artmont: It was.

Mr. Callahan: It was or it was not.

Ms. Artmont: It was.

Mr. Callahan: You have told us that he questioned you a number of times about the letter and even discussed the question could it be Fleischmann.

Ms. Artmont: I am sure the conversation did not go on for any longer than a minute.

Mr. Callahan: I thought it was five to 10 minutes, or was that with the--

Ms. Artmont: No, that was with--

Mr. McFadden: With the process server.

Ms. Artmont: --the process server.

Mr. Callahan: Did Clamp ever telephone you?

Ms. Artmont: Did Clamp ever telephone me? Is that the question?

Mr. Callahan: Yes.

Ms. Artmont: On Monday, yes.

Mr. Callahan: He phoned you on Monday.

Ms. Artmont: Yes.

Mr. Callahan: Did he tell you who he was?

Ms. Artmont: Yes, he told me who he was and that he was calling on behalf of the law firm Stikeman, Elliott.

Mr. Callahan: He did not tell you that he was calling on behalf of a process serving company.

Ms. Artmont: Not that I recall. No.

Mr. Callahan: So when Mr. Clamp says that in his affidavit, he is obviously mistaken. Is that what you are saying?

Ms. Artmont: I am saying that I certainly do not recall it.

Mr. Callahan: In his affidavit, Mr. Clamp goes on to say that he read out what would be termed the style of cause or the nature of the document to you. You are saying that never happened.

Ms. Artmont: I am saying I do not recall it and I cannot imagine if someone had said to me "a \$2.7 million statement of claim from Ivan Fleischmann," it would have gotten by me.

Mr. Callahan: I beg your pardon.

Ms. Artmont: I said I do not recall him saying it and I cannot imagine that if he said to me, "This is a \$2.7 million statement of claim from Ivan Fleischmann," it would have gotten by me.

Mr. Callahan: But you had a fairly lengthy discussion. This is the fellow who you thought was from Stikeman, and you told us about 10 to 15 minutes. Is that right?

Ms. Artmont: Yes.

Mr. Callahan: You have never heard the name--

M-1720 follows

(Mr. Callahan) ...

...but you had a fairly lengthy discussion--this was the fellow who you thought was from Stikeman--you told us for about 10 to 15 minutes. Is that right?

1720

Ms. Artmont: Yes.

Mr. Callahan: You never heard the name Metro Process Servers Ltd. then?

Ms. Artmont: No. I was not even aware that these sort of things were served through process servers.

Mr. Callahan: How did you think they got served?

Ms. Artmont: I thought lawyers acted as your agent in matters like this.

Mr. Callahan: You have a man representing himself, you say, from Stikeman, Elliot. That is a law firm. Did you believe that he could be a person who might be serving a legal document on you?

Ms. Artmont: If I have to go back and think how I thought something like this would take place, I would have assumed you got a letter telling you it was going to proceed, that you gave them the name of your lawyer and it was handled through lawyers. I had no idea that people were sent out to track you down and hand you the documents.

Mr. Callahan: You made a statement to the press to the effect that you did not think they would be stupid enough to serve Mr. Gillies in the committee. Is that right? You used the word "served".

Ms. Artmont: Yes.

Mr. Callahan: Was that the terminology that Mr. Clamp used to you, that he was going to serve a letter on Mr. Gillies?

Ms. Artmont: I believe it was. That was the same term they used when they served the letter of intent.

Mr. Callahan: In your affidavit at paragraph 3, you say, "To the best of my recollection the man said, 'I have a letter to deliver to Mr. Gillies'." It does not say "serve" at all, does it?

Ms. Artmont: No, but I also point out to you that if you look at page 3 of Mr. Patton's affidavit, he is saying that when Phil came over to him he said, "I have a statement of claim to deliver to you." The two terms are interchangeable.

Mr. McFadden: For a layman, who is going to know the difference between deliver and serve?

Mr. Callahan: All I am questioning is her affidavit. You went over



the affidavit before you swore it under oath, did you not?

Ms. Artmont: Of course I did.

Mr. Callahan: In the affidavit, you specifically used the words "have a letter to deliver". Is that right?

Ms. Artmont: Yes.

Mr. Callahan: Today you have indicated that the word "serve" was used.

Ms. Artmont: I hardly think it is a big deal.

Mr. Callahan: That is correct, is it not?

Ms. Artmont: Yes.

Mr. Callahan: I am just trying to get answers, Ms. Artmont. You do not have to get upset about it. If you thought back now, doing your affidavit you probably would have used the word "serve", that the word "serve" had been used.

Ms. Artmont: I think the words are interchangeable and I do not know if I would have changed it.

Mr. Callahan: This was a 10- to 15-minute conversation. You tell us you did not want to upset Mr. Gillies and that is the reason you did not tell him about this. Did you make any notes of this 10- to 15-minute conversation?

Ms. Artmont: No.

Mr. Callahan: You made none whatsoever?

Ms. Artmont: No.

Mr. Callahan: How can you recall specifically what was said or was not said?

Ms. Artmont: That is why it is very difficult. You do the best you can to do something like this.

Mr. Callahan: So is it possible that Mr. Clamp, in speaking to you, did in fact tell you that it was a legal document?

Ms. Artmont: When you do something like this, you base it on what you knew at the end of the conversation. At the end of the conversation I was aware that I was getting a letter and that the man was coming down any time during the week. That is what you go back and base your affidavit on, what you knew after you had the conversation.

Mr. Callahan: You did not take notes. It was a 10- to 15-minute conversation and you told us that you really had no reason to be hyped by this because you did not know what it was. You did not know it was legal process. So really, what you did when you prepared your affidavit was reconstruct, as best you could, what took place in that 10- to 15-minute conversation.

Ms. Artmont: Of course.

Mr. Callahan: So it is reasonably possible, I suggest to you, that he in fact did read out the style of cause to you.

Ms. Artmont: It is so unlikely that he told me that it was from Fleischmann, it was for \$2.7 million and it was a libel suit. It is so unlikely that I would not remember that.

Mr. Callahan: It may well be unlikely that he even mentioned Mr. Fleischmann's name or the amount, but what he may have read to you was the fact that this was a libel action commenced against...

1725 follows

(Ms. Artmont)

--and it is a libel suit. That is so unlikely that I would not remember that.

Mr. Callahan: It may well be unlikely that he did not mention even Mr. Fleischmann's name or the amount, but he may have read to you that this was a libel action commenced against you and Mr. Gillies.

Ms. Artmont: I do not remember ever hearing the term libel action.

Mr. Callahan: Can I assume though you are saying you do not recall, and that is understandable if you did not take any notes of a 10 or 15 minute conversation, but is it possible that the discussion was other than a letter?

Ms. Artmont: I am well aware I used the term letter back to him when I said, "Well, can I accept Phil's letter for him?" but he said "I have to hand-deliver it" and he did not correct me at that point so we were using the term letter in the conversation.

Mr. Callahan: Have you ever heard the phrase "statement of claim"?

Ms. Artmont: The first time I heard it was when Phil first came in after he had been served and he said I have a libel suit for a \$1 million and Norm Sterling looked at it and said, "No, you have got a statement of claim for \$2.7 million." I do not even know what a statement of claim is. I do not know if it differs from a libel suit. I am not familiar with the terminology.

Mr. Callahan: You told us you did not want to disturb Mr. Gillies by telling him about this item you spent 10 or 15 minutes talking to this man about. Did you tell anyone else about it, recognizing you did not want to disturb Mr. Gillies?

Ms. Artmont: Yes, I said a discussion with one of the Sun reporters.

Mr. Callahan: Who was that? =

Ms. Artmont: Pauline.

Mr. Callahan: I heard Sun reporter, but I did not have a name. Who was the Sun reporter?

Ms. Artmont: Pauline Comeau.

Mr. Callahan: Pauline Comeau. Was this discussion all about what the conversation had been about?

Ms. Artmont: I do not remember who initiated the conversation, but we discussed the fact we had both received a telephone call, had both gone through schedules with the man. She asked me when he was coming to serve us. I said I did not know. She told me he was coming to serve her on Thursday morning. She asked me what it was regarding and I told her I guessed it could be a number of things and we talked about what it might be. We also talked about how we felt about it, that sort of thing.

Mr. Callahan: Just taking you to the committee room the day the statement of claim was served, you signalled to Gillies.



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Ms. Artmont: I went to get him..

Mr. Callahan: Did you say to Gillies words to this effect, "Here is the guy I told you about?"

Ms. Artmont: What I think I said was "There is a guy here who wants to see you. He is right back there" and I pointed him out to him.

Mr. Callahan: That was not my question. I asked you did you say, "Here is the guy I told you about?" Yes or no?

Ms. Artmont: No.

Mr. Callahan: Are you certain of that?

Ms. Artmont: Not that I recall.

Mr. Callahan: Would you like to think about it, because it may well have been overheard?

Ms. Artmont: I do not recall saying it.

Mr. Callahan: Well, it would make sense you would not say that, because if you did it would mean that Mr. Gillies knew this man was coming to that committee hearing that morning.

Ms. Artmont: No, it could easily mean that I had told him earlier in the morning somebody was coming to serve him a letter. It could very well mean here is the guy with the letter.

Mr. Callahan: Did you tell him that, the man was coming to serve him a letter?

Ms. Artmont: I said it so many times.

Mr. McFadden: The witness has already said at nine o'clock that morning she received the call.

Mr. Callahan: Did you tell him what arrangements you had made, if any, to assist this man in serving a letter on Mr. Gillies when you had that conversation?

Ms. Artmont: No.

Mr. Chairman: I do have other members who want to ask questions.

Mr. Callahan: I will pass in the interim.

Mr. Morin: How long have you been working for Mr. Gillies?

Ms. Artmont: Two years.

Mr. Morin: Did you know him prior to that?

Ms. Artmont: He went to high school with my sister. I am older than he is. I sort of knew of him, but I did not know him very well.

Mr. Morin: But, you have known him for many years?

Ms. Artmont: No, I only met him three times before I started working for him.

Mr. Morin: Did you--

M-1730 follows.

(Ms. Artmont)

--I am older than he is, sort of knew of him, but I did not know him very well.

1730

Mr. Morin: But you have known him for many years.

Ms. Artmont: No, I only met him three times before I started working for him.

Mr. Morin: Do you find this normal to hide information from your boss?

Ms. Artmont: Hide information?

Mr. Morin: Yes, because I know as a researcher and you are obviously a very good reseacher, I knew of you as a good researcher, that any little information that you may find or that you may hear, your curiosity is peaked and you want to find out more whenever it is something you lifted, in other words, every stone, to find out any information that you require. When you received that call from that gentleman that day, "I want to serve you a letter." Surely "I want to serve you a letter" would have peaked your curiosity. "What kind of letter should you want to serve then? What is it? Where are you calling from?"

Ms. Artmont: All I can tell you is what our conversation was and obviously it did not peak my curiosity that much.

Mr. Morin: Not at all?

Ms. Artmont: I was convinced it was just another letter of intent.

Mr. Morin: Did you think it was a repetition of what you were served with in November?

Ms. Artmont: No, not necessarily. I had also received two separate phone calls from lawyers representing other people who were threatening in the past month prior to that, so it was not going to surprise me if somebody else.

Mr. Morin: Were you aware there was a rumour floating around that everybody knew, and I just state the word of Mr. McClellan, that there was a summons to be served. Were you aware of that?

Ms. Artmont: No.

Mr. Morin: Not at all. You had not heard it?

Ms. Artmont: That?

Mr. Morin: That Mr. McClellan made a statement in the House to the effect that he himself knew and one of his colleagues had told him that a summons was about to be served by Mr. Fleischmann. Were you aware of that as of the Tuesday?

Ms. Artmont: As of the Tuesday afternoon I was pretty much aware that this action had to do with Fleischmann.



Mr. Morin: You did.

Ms. Artmont: Oh yes.

Mr. Morin: Okay. Were you not inclined at that time to give a call to Phil and say, "Hey, Phil, I think we are--?"

Ms. Artmont: Frankly, I was not.

Mr. Morin: Did you purposely because of your concern, because of your concern of Phil being worried for nothing, because he had enough on his mind, that you would hide this purposely? Did you hide this purposely from him?

Ms. Artmont: I do not think the word "hide" is accurate. It is a judgement call. You get so much information and you decide what you are going to tell him about or what you are not. You do not waste his time with stuff that you are not sure about.

Mr. Morin: Yes, but surely, an official call.

Ms. Artmont: In retrospect now, maybe I would do it differently, but it is difficult. The way I did it is the way I did it. I cannot change that.

Mr. Morin: It did not cross your mind at all that you should seek advice and you should inquire further what the letter is all about?

Ms. Artmont: It occurred to me on Thursday morning once I was served that I should have called a lawyer. I should have found out if we could have been served. I should have done something, but I did not.

Mr. Morin: Because not only Phil was being threatened, so were you.

Ms. Artmont: That is right.

Mr. Morin: Did you want to share that worry with Phil, and say, "Look, what is it all about?" Not at all?

Ms. Artmont: No.

Mr. Morin: You are a very poor person, let me tell you. I say this in a kind way.

You mentioned that you received a call on the 19th.

Ms. Artmont: That is right.

Mr. Morin: Mr. Clamp, in his affidavit says the 20th. How do you know it is the 19th?

Ms. Artmont: I remember very clearly, I had just arrived in the office because question period runs very late on Mondays. We start late and I had just gotten into the office about 11:30. It was the first phone call I had that week.

Mr. Morin: Did you keep a record of it?

Ms. Artmont: No.

Mr. Morin: You did not write it down?

Ms. Artmont: No.

Mr. Morin: In some of the affidavits, of the statement and this question will be repetitious?

Mr. Chairman: That will not make it unusual in here this afternoon.

Mr. Morin: Sometimes we have to be repeated, often to understand clearly.

Mr. Chairman: I know, I know.

Mr. Mancini: That was unkind, Mr. Chairman.

Mr. Morin: Mr. Clamp says, "I informed, Ms. Artmont, that I did not wish to interrupt any government proceedings and inquired whether it would be appropriate to serve Mr. Gillies at that time." That is his statement.

You say,--

M-1735-1 follows

(Mr. Morin)

Mr. Clamp says, "I informed Ms. Artmont that I did not wish to interrupt any government proceedings and inquired whether it would be appropriate to serve Mr. Gillies at that time." That is his statement. You say no, he never. He did not say that.

1730

Ms. Artmont: He never asked my permission. No.

Mr. Morin: I am just speculating. Let us say that this statement is accurate. Would you have told him, "Mr. Clamp, you are not allowed to deliver a letter such as this one in the House"? Would you have said that?

Ms. Artmont: No.

Mr. Morin: In other words, you would have left him ??on the track.

Ms. Artmont: I have already been served with two letters of intent in this building and it was well known by everyone. Never had anyone said they ??could not do it.

Mr. Morin: You individually or Mr. Gillies?

Ms. Artmont: I have been and so has Phil.

Mr. Morin: Previous to that and he never complained.

Ms. Artmont: No.

Mr. McFadden: Not in a committee meeting.

Mr. Morin: No, but in the House, in the precinct.

Ms. Artmont: Yes.

Mr. Morin: And he never complained.

Ms. Artmont: That where the letters of intent on this matter were served--in the House.

Mr. Morin: Was it another matter?

Ms. Artmont: No. There was this matter and there was a previous matter. We have been served both times in the precincts of the House. Nobody did anything about it.

Mr. Mancini: Where in the House were you served?

Mr. Artmont: Outside the west lobby, was the one, and another one was in our office.

Mr. Morin: Again, I am speculating. He said, "Ms. Artmont, I am about to deliver to you a law suit for \$2.7 million." What would you have said?

Ms. Artmont: I would never have given him my schedule. I never would



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have co-operated.

Mr. Morin: Would you have told him, "Sir, you are not allowed to do that in the House"?

Ms. Artmont: I do not know. To be honest, I do not know that they cannot do it.

Mr. Morin: I know, but you say in an article in the Globe and Mail dated January 23: "Ms. Artmont told a reporter last night that she had told Mr. Gillies, 'I do not think they would be stupid enough to come in to the committee. Obviously I underestimated them.'"

When Mr. Clamp spoke to you, did he say it was a statement of claim or did he say it was a letter?

Ms. Artmont: My recollection is it was a letter.

Mr. Morin: A letter. I know it is very difficult to recall things and the memory is that kind of faculty that forgets things quickly. We sometimes purposely forget things we do not need to recall. What I am saying there is that in your affidavit it is to the best of your recollection. It is possible that you may err.

Ms. Artmont: That is right. I admit that.

Mr. Morin: I am in a position and I will ask you a very straightforward question. Which statement should I believe, Mr. Clamp's or yours?

Ms. Artmont: I know that I would always believe me.

Mr. Morin: We have not heard Mr. Clamp yet.

Ms. Artmont: I think that when you interview Mr. Clamp tomorrow things may change.

Mr. Morin: You mean that their positions can change.

Ms. Artmont: You may find that he just did not think it was important to mention some of this stuff.

Mr. Morin: Are there any things in the affidavit that you feel you should have said and that you forgot to say? Because this is not cast in stone. There are other things which would be helpful to you.

Ms. Artmont: No. There was more detail and I think I went into the detail of the conversations, because I was telling him what the meetings were about, what time we would get there and what time we would leave. I obviously did not put that in the affidavit because it would end up being 15 pages if you tried to do that. Other than that, that is the best I can put it together.

Mr. Villeneuve: Let us get back to the first call on Monday morning, January 19, I believe, from a representative of Stikeman, Elliott. Did that sound at all like a threatening call that morning, or was it a casual call?

Ms. Artmont: No, he was a very nice man.

Mr. Villeneuve: It was a casual call--

Ms. Artmont: Yes.

Mr. Villeneuve: --much like 98 per cent of the other calls you get from constituents or whomever, but this happened to be a legal thing.

Ms. Artmont: Yes.

Mr. Villeneuve: He did not want to disturb you or Mr. Gillies--

M-1740 follows

(Mr. Villeneuve)

--It was a casual call.

1740

Ms. Artmont: Yes.

Mr. Villeneuve: Much like 98 per cent of the other calls you get from constituents or whomever, but this happened to be a legal.

Ms. Artmont: Yes.

Mr. Villeneuve: And, did not want to disturb you or Phil?

Ms. Artmont: And there did not seem to be any urgency because if there was an urgency I was in my office all day and invited him over. There was no urgency to come and it was a very friendly call.

Mr. Villeneuve: There was no way that it would have triggered that this is real serious and we are into some kind of trouble.

Ms. Artmont: No, it did not trigger that at all.

Mr. Villeneuve: One thing that really concerns me. The word threat has come up many times from you particularly. The word threat I have a problem with because I was not elected to be threatened and I do not believe you work for--First of all, whom do you feel you work for, Phil Gillies, the caucus office? Who do you work for?

Ms. Artmont: I guess I work for Phil first, at least I feel I do. Protect his interests first and then I work on behalf of a caucus.

Mr. Villeneuve: Mr. Morin, over here said that he says that he considers you as a very competent researcher and what have you and that is quite a credit to you. Probably this is the reason why the word threat seems to come up or has come up on a number of occasions. You have received two or three letters of intent?

Ms. Artmont: We have had two letters of intent and I have had two separate phone calls from lawyers representing different people, whose matters we have been raising in the House.

Mr. Callahan: These are obviously subsequent. I stayed away from that. I do not really see any relevance in that.

Mr. Villeneuve: Thank you. Coming to the point. You as an employee of a provincial member of parliament have been threatened by a number of letters of intent and these quite obvious have become threats. Do you know of any other researcher or legislative assistant, if you will, for the lack of a better word, executive assisant of ?? who have received these in the last period of time?

Ms. Artmont: No, I do not know of anyone, but I assume there must be. It must have gone on with the NDP researchers in the past.

Mr. Villeneuve: I understand they attempt to have a degree of protection in the contract.



Ms. Artmont: Yes.

Mr. Villeneuve: Do you have that in your contract?

Ms. Artmont: No.

Mr. Villeneuve: It disturbs me that an employee of an MPP receives threats in the process of doing their job.

Mr. Callahan: On a point of order, I want to interrupt on this. It is not a threat. It is a letter of intent.

Mr. Chairman: I would say that is a given. I am not sure that it is terribly relevant, but I think it is a given that there are a number of employees in probably all of the caucuses now who have been named in lawsuits, where members have been named, or who have received angry phone calls. My assistants certainly from time to time have received angry telephone calls from people who are not my constituents. That is part of the territory, unfortunately.

Mr. Villeneuve: What we are getting at, I see my legislative assistant, executive assistant, whatever, and I will use the word threat again, gets these kinds of phone calls. You would have a tendency to be gun shy if indeed you knew that you did not have the immunity or the privileges of this--.

Mr. Chairman: Okay, we are done. Any other questions of this witness?

Thank you very much. I think we would extend to you, what we would extend to other witnesses. If there is some further statement that you want to make to the committee, either in writing or by attending to the committee, we would be pleased to entertain that. If there is something further that you want to place in front of us as testimony we would be happy to receive. We thank you for attending.

Mr. Warner: Briefly, I have a point of order. It is a little awkward to raise it because have only one member of the Conservative team here, but we are little concerned. We have been six Conservative members today and out of the six I think only two, who were present, both in the morning and the afternoon. I am a little concerned that we start out with a group of 11 of us and that it be the same 11 so that when we hopefully wrap this thing up on Thursday we have the same folks who have heard all the information and can arrive at a reasonable conclusion. I wonder if there is any way that we can be assured of getting the same group of four folks, if I may, Conservative team, here tomorrow?

Mr. Chairman: I was going to raise this matter--  
M-1745-1 follows

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(Mr. Wanrer)

...be assured of getting the same group of four folks on the Conservative team here tomorrow.

Mr. Chairman: Okay. I was going to raise this matter again, as I did this morning. It is very difficult in hearing a case such as this if I do not have the same folks in the room all the time. I understand there are lots of committees running and members have other obligations but, quite frankly, you are making it even more difficult if I do not have a consistent group of people hearing all the evidence, not just part of it.

I am aware there will continue to be some substitution. I understand that. I am going to put this message to you now. Please try to have all of your members present for all of the hearings. I will add a little footnote here. I know it is the practice in other committees to have members drop in to see what is going on. I really wish you would discourage other members who are not normally members of this committee from doing that. I am pleased with the tone of the discussions today. It has been a little boring, but it is not meant to be exciting all the time in here. People have a job to do and it is not anybody's job to decide the questions are scintillating. It is only your job to be here and listen to them. That is all. That is as good as it gets.

We are not assisted in our duties by having people drop in and heckle for a short period of time and then leave. If you would kindly spread the word to people in each of your caucuses; "If that is your contribution, watch it on TV. Don't visit us. You are not welcome to drop in and heckle. If you want to drop in and observe, fine."

I would point out to you in previous committee reports we have observed this is a problem. I really do not have any grounds for preventing any member of the assembly from sitting in on the committee. All I have is peer pressure. I have not been asked by other members whether they have a right to speak. It would put me to some difficulty if other members came in and, for example, pursued a line of questioning and then left. I have no problem with members questioning ad nauseam. If you can stand it, I can stand it. What I object to is when people drop in for 10 minutes, usurp the committee's time and then leave, and will have nothing further to add to the committee's deliberations.

The best I can do is ask for your help in this. If you could get the members of your respective caucuses here and if you could have them do the questioning, you would assist us. If they are the same people all the time it is possible we will actually be able to look at the same set of evidence and make up our collective minds on it.

Mr. Callahan: If I could add something to the point raised by my colleague as well as by yourself, in this particular case, as in cases such as this you have dealt with in the past, that becomes very critical because here, whether we like it or not, we are looking at having to write a report where we are going to accept evidence or reject it, and the only way you can do that is to see the witnesses testify as well as hear what they say. It is a well known principle that no higher court will retry a case because they did not have the benefit of seeing the witnesses and determining their credibility. That emphasizes what you have said today.

Mr. Chairman: I am particularly aware the committee has set out to



hear witnesses this week and the possibility exists that we will finalize the deliberations this week. I would be the first one to cry "foul" if half the people who are making the decision were not present to hear the evidence. In spite of the fact they may, of course, watch it on video tape or get a Hansard of it, I have no assurances they did that.

You are going to put the chair in a very awkward position if you decide on Thursday to finalize our report on the matter, and I am looking around a room where half the people in the room have not heard the evidence presented. I cannot really do much more than that, just caution you.

Mr. Mancini: I have a point I would like to bring up and it has to do with attendance. It was my original understanding we would adjourn around 4:30 p.m. or 4:45 p.m., or something like that. I had arranged a meeting with one of the assistant deputy ministers of agriculture and food to talk about some vital matters pertaining to my riding. The person was waiting in my office and I had to leave the committee room, attend the meeting, conduct our business and come back down.

I think that is very unfair. It is not the fault of any member of the committee that matters are going somewhat more slowly than we would like. I do not think it is fair to ask us to curtail in any way some of the necessary outside duties and responsibilities we have because we want to sit until 6 p.m. Frankly, I want to tell you that I am not prepared to stay here till 6 p.m. on a daily basis in this committee, because I have other work to do. I remember the Fontaine committee very well. I sat through

M-1750-1 follows



(Mr. Mancini)

...the committee that matters are going possibly somewhat slower than we would like and I do not think it is fair to ask us to in any way curtail some of the necessary outside duties and responsibilities we have because we want to sit to 6 p.m.

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Frankly, I want to tell you that I am not prepared to stay here to 6 p.m. on a daily basis in this committee because I have other work to do. I remember the Fontaine committee very well. I sat through that the whole summer. I co-operated with other members of the assembly would could not sit on particular days because they had to go back to their ridings. We postponed those hearings from week to week to week.

If we cannot finish this up on Thursday, and it is going to take until Tuesday or Wednesday, that is fine with me, but I am not prepared to sit here until 6 p.m. like we did today. It is okay today, that is the way things happen the first day, but I do not think the members of the committee can count on that for the rest of the hearings. I do not know their feelings, but it might be a good time for everyone to express their feelings.

Mr. Chairman: All I can say is that the steering committee and the committee itself decided we would take a shot at hearing the witnesses this week. That is what we are doing. By about Thursday, the committee will make their deliberation as to whether we need more witnesses, more sitting time or whatever.

I am going to point out to you the obvious. The committee schedule during the interim is jammed. There are no bodies and no extra sitting times available. This committee does have some time in the latter part of March and April where there is a little bit of flexibility, so we perhaps could hear further witnesses during that time period. I think the best we can do is just proceed as we have set out to do and that is hear as many of the witnesses as we can this week and that will be it.

Is there any further business?

Mrs. E. J. Smith: I heard your comments in the office and I just wanted to assure you on behalf of our caucus, because I know we often have the most problem in manning committees, that I completely agree with you. When you are dealing with witnesses and evidence that may or may not be contradictory, continuity of people is of the utmost importance. Although one of our people is a substitute, it is our intention that this group, including this substitute, will be with this matter from now until it is concluded. I completely concur. It is too important to the people involved for people to be in and out.

Mr. Chairman: I will make two other outlandish statements. The coffee service is supposed to be available until 7 p.m. and is not. The chairman of the subcommittee on members' services had better look into that.

If we do not get some heat in this room tomorrow, I am going to burn some of these desks. Whoever is watching, whatever engineering department or ministry is responsible for putting some heat in this building in the

wintertime, either you put it in tomorrow or I am putting it in.

Is there any further business? We are adjourned until 10 a.m.

The committee adjourned at 5:53 p.m.

## LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, February 18, 1987

The committee met at 10:12 a.m. in room 151.

## MEMBERS' PRIVILEGES

Mr. Chairman: Okay, we have a quorum. Before we ??.., I want to simply draw to your attention that there is a slight revision in the timetable, and I will go over the witnesses for today: Mr. Clamp this morning and Mr. Lederman this afternoon, and tomorrow morning Mr. Patton will be appearing in front of the committee, and that will leave us tomorrow afternoon to review the evidence and to offer the staff some instruction in drafting a report, if that is possible. So, the first witness for this morning is Mr. Clamp from the Metro Process Servers Ltd. Would you just come forward and the clerk will swear you in.

Rex B. Clamp sworn.

REX B. CLAMP

Mr. Chairman: Mr. Clamp, we normally provide witnesses before the committee with an occasion to make an opening statement, if they want; if not, we will just proceed with questions. If you have a statement, ??go to it.

Mr. Clamp: No.

Mr. Chairman: Okay. Any questions from members of the committee then?

Mr. Mancini: No opening statement?

Mr. Chairman: No.

Mr. Mancini: Mr. Chairman, I guess it is up to the witnesses whether or not they make an opening statement, and we did not have any opening statements yesterday. We do not have any opening statements today. I mean, I think this is a fairly important public inquiry that we are undertaking. I just want to say that I am somewhat disappointed just as a personal member of the committee that no one is taking the opportunity to make statements because it helps us in our asking of questions; but I guess if that is not going to be the case, I guess we can just start by asking questions.

Sir, I guess you have read the sworn affidavit that was submitted by Ms. Artmont.

Mr. Clamp: Yes.

Mr. Mancini: Which is considerably different ??than the one that was submitted on behalf of your firm. Do you feel that there are any--Well, could you tell for the committee, just for example--and we have gone over the affidavits before yesterday's hearing and again yesterday--but just in your own words can you tell us what you find most surprising--let us put it this



way, what you find most surprising in the affidavit that was sworn by Ms. Artmont?  
M-1015-1 follows.

(Mr. Mancini)

...but just in your own words, can you tell us what you find most surprising--let us put it this way--what you find most surprising in the affidavit that was sworn by Ms. Artmont?

Mr. Clamp: Well, I don't find anything too surprising. I notice that she qualifies her affidavit by saying, to the best of her remembering. I think if I remember correctly, to the best of her "recollection" is the word she used; so I can only say that my affidavit was sworn to the best of my recollection.

Mr. Mancini: And your recollection and her recollection does not coincide in very many--

Mr. Clamp: Unfortunately, I am only responsible for my own recollection, and what I swore in that affidavit as far as I recollect is true; and that is what happened.

Mr. Mancini: Okay. Can you give us then in very general terms your recollection as to how this situation came to evolve, from the point in time that you were hired by the law firm Stikeman & Elliott?

Mr. Clamp: We do a lot of work for Stikeman & Elliott, and just so that the committee may understand a little of the procedure, we just get a phone call which says, "We have some work to do and it is at the desk to be picked up." So we just send someone in and we pick the work up at the main desk of Stikeman, Elliott, which is on the 14th floor of the Commerce Bank Court, I think, Commerce Court. And they just say: "Enclosed is so and so. Will you please see that it is served," and normally that is it; and this is what happened in this particular place. There were no special instructions saying any time or place or rush off and do it immediately. If it is an important matter, the only qualification to the Stikeman's instructions are, "Please do this as soon as possible," and as far as I recollect, there was no urgency.

Mr. Mancini: You knew you were serving an MPP.

Mr. Clamp: Only when I read the instructions. Yes.

Mr. Mancini: I see. Since your firm does this work on a regular basis, did you give some extra care to find out how you could serve this, or whether or not you could come into committee meeting or wait outside the committee room? What care did you take? You are before this committee because, as the public accounts committee found some time ago and as the House said in its original motions to this committee, there has been a breach of the member's privileges; and I was just wondering if you had taken some care to find out just how exactly you could serve this.

Mr. Clamp: It is all in my affidavit, if I am not mistaken, exactly the steps I took to ensure that I would not be causing any inconvenience or embarrassment.

Mr. Mancini: Your affidavit states: "I have previously served members of the Legislature at Queen's Park and my standard practice in such cases is to phone the member in advance to arrange a mutually convenient time for service." Now, one would think that "mutually convenient" means that you

called and the individual at the other end of the phone says, "I will be at such and such an office or place at such and such a time, and I will be waiting for you."

Mr. Clamp: That is exactly what happened. I spoke to the member's personal secretary.

Mr. Mancini: Could you tell us about the conversation?

Mr. Clamp: I asked her if--I told her first of all, and she was named in the lawsuit--I said that I had some papers to bring to her from the law firm of Stikeman, Elliott; and, if I understand correctly, in libel actions the statement of claim is preceded by a notice of libel.

Now, my firm did not serve the notice of libel, but I presume that it was served because that is the strict legal procedure in these matters. So, I do not think--I presumed that Ms. Artmont would know about what I was talking, and I said, I certainly have legal papers--

Mr. Mancini: Why would you want to presume that if it is your job to make the arrangements? Why would you want to presume anything?

Mr. Clamp: I just said that it is preceded by a notice of libel, so it has to be served before the notice of action can be served or the statement of claim; so that one can presume...  
M-1020-1 follows.



to make the arrangements. Why would you want to presume anything.

1020

Mr. Clamp: I just said that it is preceded by a notice of liability, so it has to be served before the notice of action can be served or the statement of claim. I can presume that Ms. Artmont had already been served with a notice. This was the second step. That is what I am presuming.

However, apart from that, I said, "I have these papers to bring to you from the law firm of Stikeman Elliot for yourself and Mr. Gillies," when would be a good time for me to see--

Mr. Mancini: Did you describe the documents?

Mr. Clamp: No.

Mr. Mancini: So she could have assumed it was a letter.

Mr. Clamp: She could have done, yes.

Never in my conversation did I use that word "letter."

Mr. Mancini: You did not use any descriptive words, I guess.

Mr. Clamp: I certainly used the term "legal papers" to the best of my recollection.

Mr. Mancini: Let us just shift to a different topic. Do you feel that what happened at the standing committee on public accounts is a grave error on the part of your firm?

Mr. Clamp: No.

Mr. Mancini: You feel then that you have the right and privilege to send your people into government committees which are sitting hearing important matters, and have your people interrupt members of the Legislature and serve them with documents, when you have not even taken it upon yourself to set up a proper appointment or to find out what the reaction of that would be?

Mr. Clamp: That is not true. Everything you have said is completely erroneous.

Mr. Mancini: I am trying to get you to tell me things, but evidently I cannot get anything out of you this morning.

Mr. Clamp: Just read my affidavit and you will see exactly what happened. I phoned Ms. Artmont and I made a specific appointment.

Mr. Mancini: Are you afraid to repeat it in your own words? Are you afraid to repeat your affidavit in your own words before this committee?

Mr. Clamp: I made a specific appointment to see Ms. Artmont and I said, I do not want in any way to interrupt anything or inconvenience anyone.

She said, "There will be no inconvenience and you will not be interrupting anyone at the time and place that we agreed."

Mr. Mancini: I have no further questions.

Mr. Warner: I wonder if I could just for a moment go over some of your experience. You mention in your affidavit that you had previously served members of the Legislature.

Mr. Clamp: I served one gentleman here before. I do not recall who it was. I am sorry. I wish I could, but I do not. If I may qualify, it was a personal thing with the gentleman, and I phoned him beforehand. This is at least two years ago. It was a person thing for him. He arranged to see me in his actual office. That is the only time I have ever served anyone in this building, but I do not recall his name. I am sorry.

Mr. Warner: You mention here that you are a partner in Metro Process Servers, a company with 10 years experience. How many years experience do you have?

Mr. Clamp: I have been serving papers since about 1972.

Mr. Warner: So 14 or 15 years. Are you aware of the restrictions with respect to when papers may be served upon members of the assembly?

Mr. Clamp: No, my activities are governed by the rules of procedure of the province of Ontario. I was not aware of any other--

Mr. Turner: What rules of procedure?

Mr. Clamp: Rules of civil procedure. Details of how companies and how individuals can be served.

Mr. Turner: But not as it pertains to the Legislature.

Mr. Clamp: No. In fact, I went back to check in the rules, and there is no section pertaining to the Legislature.

Mr. Turner: Are you aware of the Legislative Assembly Act?

Mr. Clamp: No.

Mr. Turner: Maybe you should be.

Mr. Martel: Section in there.

Mr. Turner: Since 1972, and you are not aware of it.

Mr. Warner: Just to clarify, since this has all unfolded, I presume now you are aware that it was not proper for your company to serve a member in the committee?

Mr. Martel: Or in this building.

Mr. Warner: Or in the building while the House is in session?

Mr. Clamp: Certainly, that is what some people are saying.

Mr. Turner: That is the law.

Mr. Martel: It is not what people are saying. Has anybody got a copy of the Legislative Assembly Act so we can give it to him. Show him the section.

Mr. Warner: This is like being in the House, or in caucus.  
L-1025-1 follows



the Legislative Assembly Act so we can give it to him. Show him the section.

Mr. Warner: This is like being in the House or in caucus.

The clarity can be provided but it is quite clear that members of the assembly, while the House is in session, may not be served in the precincts of the House, which include the committee, the chamber itself or the member's offices. So for future business, your company would be well advised to be aware of those restrictions.

If I could return to the case, there is a discrepancy in terms of dates. Your affidavit claims that on Tuesday, January 20, you phoned. Ms. Artmont testifies that it was on January 19. Do you have any records or documentation which would verify that you had placed the call on the Tuesday and not on the Monday?

Mr. Clamp: No. All I have is on the worksheet that I provide for my employee, written on the bottom, room 151, the date it was served and the time. I said, "This is the arrangement I have made for you to serve Ms. Artmont and Mr. Gillies, so you be there at that particular time at that particular place." I just wrote that on the bottom of the sheet so I would not forget that.

Mr. Warner: In your affidavit, part 3, the last sentence, "I identified the documents to Ms. Artmont by reading to her the style of cause within action." That is a very general kind of statement. Specifically, can you recall what it is that you said to her?

Mr. Clamp: If I read the style of cause, I would just say that it was--I do not remember the name of the defendant--but I would have quoted his name and then I think, if I remember correctly, there was Ms. Artmont, Mr. Gillies, the Toronto Sun Corp. and two or three reporters named as defendants. I may have only quoted to Ms. Artmont her own name and Mr. Gillies as she would not be concerned with the Sun or any of the reporters, I would not think. I made a different arrangement with them, of course.

Mr. Warner: Is that all the information which you normally would provide over the telephone?

Mr. Clamp: Yes.

Mr. Warner: So that would be your understanding that at the end of that conversation, she would have very little information as to what it was that she would be receiving?

Mr. Clamp: Not in this particular case, because, if I am correct, this statement of claim has to be preceded by a notice of libel, a notice that they are going to proceed in a libel case. Now, my firm did not serve the notice of libel, so I presume that someone else did; either another firm or someone in-house at Stikeman, Elliott.

Mr. Warner: Notice of libel.

Mr. Chairman: Just to help you along here, Mr. Warner, both Mr. Gillies and Mr. Artmont indicated yesterday that they had, indeed, been served

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with this letter of intent which is--

Mr. Warner: Oh, that is the same as the letter of intent. That is the one which was received in November. All right.

Is it normal for there to be that length of time between when the notice is sent?

Mr. Clamp: I do not know. That depends again on the rules of practice. There will be a time limit. I do know that, but what it is, I do not know.

Mr. Warner: I just want to make sure that I understand the nature of the conversation. You spoke with Ms. Artmont and at the end of the conversation you asked about when it would be convenient to serve and were assured that it would not be inconvenient to come to the building. Did she specify where in the building?

Mr. Clamp: Yes, this particular room.

Mr. Warner: She told you the committee room and do you recall what time?

Mr. Clamp: I think it was 10:30.

Mr. Warner: She said 10:30?

Mr. Clamp: Yes, or I may have said, "Will 10:30 be convenient on that particular day." Certainly, we arrived at a time  
M-1030-1 follows

1030

Mr. Clamp: At 10:30, I think.

Mr. Warner: She said 10:30?

Mr. Clamp: Yes, or I may have asked, "Will 10:30 be convenient on that particular day?" Certainly we arrived at a time.

Mr. Warner: When you arrived, can you just very briefly describe for me what you encountered?

Mr. Clamp: It was not me who came.

Mr. Warner: Oh, it was not you?

Mr. Clamp: Mr. Patton came.

Mr. Warner: I will have to ask him. Mr. Patton works for you?

Mr. Clamp: Yes.

Mr. Warner: How long has he been employed with you?

Mr. Clamp: For 15 months approximately.

Mr. Warner: I have no further questions at this time.

Ms. Fish: Mr. Clamp, I would also like to review a couple of things. Did I understand you to say under questioning just a few minutes ago that you had no specific instructions respecting the service from the firm of Strikeman Elliott?

Mr. Clamp: Yes, that is right. I do not recall any special instructions, just to serve the statement of claim on the defendants.

Ms. Fish: And particularly you had no instruction about where the papers would be served?

Mr. Clamp: No.

Ms. Fish: Let me turn then to the second thing that has been touched on a couple of times, and that is the description of documents. I think I heard you say a few minutes ago that you did not describe the documents in very much detail but referred to them as legal documents?

Mr. Clamp: Yes.

Ms. Fish: Is that correct?

Mr. Clamp: That is correct.

Ms. Fish: You were just talking for a few minutes in response to Mr. Warner's questioning about the style of cause. Allow me to show you a copy of that action. I do not know whether Hansard can still pick me up, but it is the first tab in your book. Would you read out for me exactly what you believe you



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read to Ms. Artmont on the telephone?

Mr. Clamp: "Ivan Fleischmann and Phil Gillies, Lyn Artmont, the Toronto Sun," and maybe I would say "two reporters." I may even have mentioned their names, which I do not recall that I did, because to me it was not important, as long as she knew that Mr. Gillies and herself were mentioned as defendants. That is the only thing that was important to me in this particular conversation.

Ms. Fish: Would you have said that Ms. Artmont and Mr. Gillies were defendants? Would you have used the term "defendants"?

Mr. Clamp: Yes.

Ms. Fish: Would you have used any of the other words from "Supreme Court of Ontario" through "statement of claim," inclusive?

Mr. Clamp: No, not to my recollection.

Ms. Fish: So that in having had that conversation, you might have indicated that you had legal documents from the firm that dealt with an action regarding Ivan Fleischmann, Phil Gillies and Lyn Artmont?

Mr. Clamp: Yes.

Ms. Fish: To the best of your recollection, did you note that you were serving papers that were filed with the Supreme Court of Ontario?

Mr. Clamp: I knew they were. I could see that they were.

Ms. Fish: Did you indicate that on the telephone?

Mr. Clamp: No.

Ms. Fish: Did you indicate on the telephone that this was a statement of claim?

Mr. Clamp: I do not recall whether I used that particular term, but if she asked me what it was, there is only one way to describe it, as a statement of claim. That is all it is, and there is no other way to describe it. I have to tell you that we did not go, in our conversation, very deeply into what it was and what it was about. My main object was to make an appointment, not to discuss with her the claim in any way whatsoever. I just really wanted to make something that was convenient for both of us or all three of us. That is what I was dwelling upon and that is what I was thinking about when I was speaking with her.

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(Mr. Clamp)

That is what I was dwelling upon and that is what I was thinking about when I was speaking with her.

Ms. Fish: So your umbrella phrase, "I have some legal documents"--

Mr. Clamp: That is a very good ??term.

Ms. Fish: --"and I must meet you," that first expression of yours is likely to have been what was referenced in that brief conversation?

Mr. Clamp: Yes.

Ms. Fish: Can you tell me whether in making your arrangements you spoke with Pauline Comeau to make arrangements for service?

Mr. Clamp: Yes, I did.

Ms. Fish: Can you tell me when you spoke to her?

Mr. Clamp: The following day or on the day Ms. Artmont was served, and I think actually it was the day Ms. Artmont was served. I made an arrangement. I spoke with Pauline Comeau here in the Legislature from the press office, and we made an arrangement to meet on the following Monday, whatever date that was. She said she would be in the press department at a certain time, so I made an arrangement to be there. However, after that arrangement was made, I got a call from Stikeman, Elliott, and they asked would I go down to their office to swear an affidavit as to the events that had just occurred, which I did.

Then they said: "We are going now to Queen's Park to have a brief press conference. Will you come to Queen's Park?" I said, "I will go with you, yes, certainly." So I said then, "If we are going to Queen's Park, let us take a copy of the claim with us because I think Ms. Comeau will be there, and I may as well serve her while I am there." She was there, and I went into the press room, and I served her there, which negated all the arrangements we had made for the following Monday, of course.

Ms. Fish: Did you speak with Ms. Comeau by telephone?

Mr. Clamp: Yes.

Ms. Fish: Your recollection again of the day that you spoke to Ms. Comeau by telephone, your initial contact?

Mr. Clamp: It had to be the Thursday, I think. This was a Thursday. It had to be the Thursday because I had just made those arrangements with her when I got the call, would I go to Stikeman, Elliott. This was late in the afternoon.

Ms. Fish: That was the only time you had spoken with her? You had not spoken with her earlier in the week?

Mr. Clamp: No.

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Ms. Fish: I think I will stand down my questioning at this point.

Mr. Martel: I want to go back to the dates that my colleague alluded to. Ms. Artmont says that she spoke to someone on January 19. You indicate in your affidavit January 20. When did you pick up the papers from Stikeman Elliott?

Mr. Clamp: It was not me personally who picked them up. I think they were picked up either on the Monday of that week or it may have been the previous Friday.

Mr. Martel: What is the process? When you go to Stikeman Elliott, does somebody sign that he has picked up any legal--

Mr. Clamp: No. It is just left out for us. We have an arrangement with Stikeman Elliott, and we do a lot of their work, so when they have some work to do--we deal with specific lawyers inside the firm--the lawyer's secretary will phone and say, "We have something to be picked up. Will you come and pick it up?" If it were something that was very urgent and had to be served the next day--for instance, a motion that was coming on in three days' time or anything like that--she would say right there on the phone, "This has to be served today because there is a motion in three days' time." So we would immediately give it immediate attention. Nothing like that was said at all. It was just something to pick up.

In a case like that, so that you understand the procedure, one of us, myself, my partner or one of our employees, would go to Stikeman Elliott and pick up the envelope at the desk, because the lady at the desk knows all the members of our firm. We would then bring it back to our office, open it up, see who was to be served with what and make out a work sheet detailing who was to be served, and this is exactly what happened.

Mr. Martel: Do you have the work sheet for the date on which you received the papers?

Mr. Clamp: I do not have it with me, but I have it if you want--in fact, I have a copy of it, and I can certainly supply you with a copy of exactly what was on the work sheet that was used by Mr. Patton.

Mr. Martel: Yes, because it would be interesting to know who is correct, whose memory is best.

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(Mr. Martel)

to know who is correct, whose memory is best.

1040

Mr. Callahan: I am going to be objective.

Mr. Chairman: If Elie Martel can find the right words, Callahan, so can you.

Mr. Bossy: He has not always found the right words in the House though.

Mr. Martel: Who? The chairman? He is not usually awake.

It is interesting, because that is quite a discrepancy, 24 hours. Somebody is saying he received a phone call from you on Monday morning and you are saying no, at least 24 hours later. The only way one could get a handle on it is to find out--maybe not. If you picked up the papers Friday, of course, it goes for nought, but if you picked them up Monday, what time on Monday were the papers picked up. It would be interesting to know when those papers were picked up, because it could have a great deal of bearing on the credibility of whoever. We are having difficulty, as you can appreciate, trying to sort out what is going on. So you will get the papers for us?

Mr. Clamp: Mr. Patton will bring a copy of the work sheet with him tomorrow.

Mr. Martel: But the legal firm, you do not have to sign for anything there?

Mr. Clamp: No.

Mr. Martel: Maybe we will ask them this afternoon if they recall the date they gave you these letters.

I am surprised, after all the kerfuffle this morning, you are saying you still did not know. I think my friend Turner almost jumped out of his seat.

Mr. Turner: No, not really.

Mr. Martel: When you indicated you still did not think it was the law or you did not know whether it was the law. After all the kerfuffle, you mean to say you did not take the trouble to find out whether what you did was illegal in so far as the Legislature is concerned?

Mr. Clamp: No. I am waiting for a decision.

Mr. Martel: No, you are not waiting for a decision. Let us get this straight. There is the law. I asked the clerk to put it before you. There is a section of the act. It is not a case of whether it is right or wrong.

Mr. Clamp: Which section is that?

Mr. Martel: Section 38.

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Mr. Callahan: In fairness, Mr. Chairman, we even had some doubts, many of us, as to the way--

Mr. Martel: No, Callahan, don't. Be fair. I just want him to read that and maybe section 45.

Mr. Clamp: To be fair, as we ought to be, thank you--

Mr. Martel: You are a great help.

Mr. Clamp: I had a legal opinion. Is it Duchesne or Duchene?

Mr. Martel: Beauschene.

Mr. Clamp: Beauschene, who was consulted on this matter by the firm. They seemed to think this does not apply to what happened on that particular day. I do not know whether this applies to what happened on that particular day, that is why I am waiting for a decision, but I can tell you this--

Mr. Chairman: Let me intervene for a moment here, because I feel an obligation. I notice that you do not have counsel with you this morning. You should be aware that you do have a right, if you choose, to have counsel with you to advise you. The counsel does not cross-examine in a legislative committee, but we have always held that people who appear have the right to counsel. You appear to have gotten some legal advice before you appeared.

I just want to make sure you are aware that there are sections of the Legislative Assembly Act which probably do apply. The House has passed one motion on the matter, essentially holding that a member's privileges were breached. This committee, in its decision, may arrive at a conclusion that you were in contempt of the legislative process. Without going any further than that, I just want to make sure you are aware that you may be held to be in contempt of the Legislature and you may be in need of some legal counsel. I do not want to go any further than that, but I do want you to be aware that there may be some legal problems with it. We have not thrown anybody in jail in some period of time around here, but that is the provision that is in the act.

Mr. Clamp: I am happy to hear that.

Mr. Chairman: It is not that we shouldn't, believe me.

Mr. Clamp: I can understand that.

Mr. Martel: I am surprised. There is a corner on a street in Ottawa. All the people who are in the same business as you know that they cannot get in to the hill. You could not get in. They stand on the corner and wait to serve their papers at

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(Mr. Martel)

know they cannot get in to the hall. You could not get in. They stand on the corner and wait to serve their papers.

Mr. Clamp: Where?

Mr. Martel: At the Parliament of Canada. We are no different here.

Mr. Clamp: I do not know. That is why I phoned to make the arrangements. That is why I went to great lengths to make sure that what arrangements I made were adequate and not going to cause anyone any embarrassment or indisposition.

When Ms. Artmont mentioned this committee room and that the committee was sitting, I said, "I do not want to interrupt anything at all." She assured me--and I do not care what she says--that I would not be interrupting anything.

Mr. Turner: She did not have the authority to do that.

Mr. Clamp: I do not know. There is no way I could know. I just presumed that she was a personal or private secretary and that she was speaking on his behalf. Then I thought, "If she says it is okay, it must be all right with him."

Mr. Callahan: Mr. Clamp, I would like to know, how long has Metro Process Servers Ltd. been in business?

Mr. Clamp: Eight or nine years.

Mr. Callahan: What is your previous background?

Mr. Clamp: I was with the licensing commission for Metro Toronto for 10 years, serving legal documents, which is all part and parcel of the duties of a licensing officer. That is the Metropolitan Toronto licensing.

Mr. Callahan: You do not have any legal background, I gather?

Mr. Clamp: No.

Mr. Callahan: Do you serve documents for a number of law firms in Toronto?

Mr. Clamp: Yes.

Mr. Callahan: How many? Can you venture a guess?

Mr. Clamp: Maybe 110, 120.

Mr. Callahan: Is the practice always the same as you have explained it is with Stikeman? You get a call from the secretary that there are some documents to be served and you pick them up?

Mr. Clamp: Yes, unless it is a new firm with which we have had no previous dealings. Then, of course, they usually like to speak with us when we go for the very first time.



Mr. Callahan: I guess on a monthly basis you render an account to them for the documents that you serve?

Mr. Clamp: The account is rendered when the original document is taken back with the affidavit of service attached.

Mr. Callahan: Is that a set fee for serving a particular document plus mileage?

Mr. Clamp: Our fee is \$16.50, plus mileage where applicable.

Mr. Callahan: How many employees do you have?

Mr. Clamp: I have a partner in the business and we have two employees. So there are four of us in that particular business.

Mr. Callahan: You have already alluded to Mr. Martel and perhaps also to my colleague that there is a--is it called a work sheet?

Mr. Clamp: Yes.

Mr. Callahan: On that work sheet, do you make the notes right at the time you are on the telephone with someone?

Mr. Clamp: No.

Mr. Callahan: When do you make them?

Mr. Clamp: On this, so it is lucid, someone went to Stikeman Elliott--not me--picked up the envelope and brought it back to our office. We have an office at 481 University. Then I opened the envelope and we put on there the name of the client, which is Stikeman Elliott; that particular date, so you will know the date I got it because the date I got it is on the work sheet.

Mr. Callahan: The date you received the documents from Stikeman Elliott?

Mr. Clamp: Yes. Then Stikeman Elliott's client. The name will be Ivan Fleischmann, because their records, of course, are kept by their clients. Then there would be a list of Phil Gillies, Lyn Artmont, Toronto Sun, Ciaran Ganley and Paulene Comeau. Right at the bottom of the page will be a notation, "Room 151, Thursday"--whatever date it was--"10:30."

Mr. Callahan: What I am trying to get at is, when the document is brought to your office, as you say it was, to whom does it then fall to make these appointments?

Mr. Clamp: I normally do it. For instance, if this had been let us say the Toronto Sun and just three of its reporters and no other people involved, we would have gone to the Toronto Sun, served the Sun, and then said, "Are the reporters in the office?" If they were, we would have served them. I have found over the years that reporters spend little time in the office. They are mainly somewhere else. For instance, these two people are always at Queen's Park, but I did not know that.

Mr. Callahan: Have you ever found them on the golf course? I am sorry.

Mr. Clamp: I am not a golfer, so I would not know.

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(Mr. Clamp)

--And just three of their reporters and no other people involved, we would have gone to the Toronto Sun, served it and then said, "Are the reporters in the office?" and if there were, we would have served them. I found over the years that reporters spend ??half the time in the office and they are mainly somewhere else.

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For instance, these two people are always at Queen's Park, but I did not know that.

Mr. Callahan: Have you ever found them on the golf course?

Mr. Clamp: I am not a golfer so I would not know, but they spend a lot of time out of the office so we have to then make an arrangement, but if this were John Doe and Fred Smith and John Brown at three separate addresses, we would just put down John Dow, 135 Richmond Street or wherever he lived and say, right, we will serve him there.

Mr. Callahan: I would like to carry that further. You say that in most cases, that is what he would do.

Mr. Clamp: In most cases, that is what he would do.

Mr. Callahan: When would you make an appointment? What is the purpose of the appointment?

Mr. Clamp: For instance, to pinpoint an MPP at Queen's Park is virtually impossible. They are on various committees, they travel around, so it is virtually impossible to come and say "I am here. I want to see Mr. So-and-So" because I know there is a good chance he will not be there. It is a waste of my employer's time to come on the off chance.

Mr. Callahan: You have obviously served other documents on MPPs, other than this one we are referring to in this committee?

Mr. Clamp: No, but I have served people who are, shall I say, very busy or not in one place for a long time so rather than keep going and going, I make an arrangement if I can.

Mr. Callahan: What you want to do is effect the service as expeditiously as possible?

Mr. Clamp: And as reasonably priced as possible, that is right.

Mr. Callahan: You made out the sheet we are talking about. How can you be so certain that the date you spoke to Ms. Artmont on the telephone was Monday, January 19? Is there any notation on that worksheet?

Mr. Clamp: No, it is my recollection. I said the 20th, I think. It is my recollection that I spoke to her on that day. That is my recollection and I am quite prepared to say it may have been the Monday because it did not matter to me what day I spoke to her.



Once I made the arrangements, I put the whole thing out of my mind because I just was not concerned with it any more. The arrangements had been made and I had no reason to think that the arrangements were no good so I did not think about it any more.

Mr. Callahan: I gather the time you received them from Stikeman, Elliott will not help us because this was not one of those urgent three-day motion type of things.

Mr. Clamp: No.

Mr. Callahan: When your employees receive a document to serve, is there some form of identification you give to your employees to identify themselves as Metro Process Servers Ltd.?

Mr. Clamp: No, they carry a Metro card, but there is no requirement under the Rules of Civil Procedure to have a formal identification. I am not saying it is not a good idea to have something. I would think it would be, but they just carry our normal business card.

Mr. Callahan: Do you know Phil Gillies?

Mr. Clamp: No.

Mr. Callahan: Would you recognize him?

Mr. Clamp: Only now.

Mr. Callahan: I am going back to the date of the conversation you had either the 19th or 20th with Ms. Artmont.

Mr. Clamp: No, I never heard of him, believe it or not. I did not know who he was.

Mr. Callahan: Would it be fair to say that you would not say to Ms. Artmont that you would probably recognize Mr. Gillies?

Mr. Clamp: I did not say that. In fact, I said to Ms. Artmont, how will I recognize Mr. Gillies because I do not know him at all. First of all, I said, how will I recognize you because I do not know you and she said to me, "In all probability, I will be the only lady in the room."

So, how will I recognize Mr. Gillies? She said words to the effect, "I will point out Mr. Gillies to you."

Mr. Callahan: Mr. Clamp, Mr. Gillies has appeared in the newspaper probably as often as Prime Minister Mulroney. Have you not seen his picture in the newspaper?

Mr. Clamp: No.

Mr. Callahan: He does not appear on the front page.

Mr. Clamp: I do not read the Toronto Sun.

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...no. I read the papers--

Mr. Callahan: Of course, he does not appear on the front page.

Mr. Clamp: Well, I do not read the Sun.

Mr. Chairman: Do you look at the pictures in the Sun?

Mr. Clamp: Certainly not; no. It is purely vicarious.

Mr. Villeneuve: You do not look that old.

Mr. Callahan: These hearings usually go on without commercial breaks, but you are telling us under oath that you had never met Phil Gillies, had never seen, had no idea who he was?

Mr. Clamp: No. I knew he was an MP, of course, but I would not have recognized him until after this all took place. I could not have come and looked for him and then said, "That is Mr. Gillies over there."

Mr. Callahan: What were the instructions? Did you intend at any time when you were talking to her personally to serve these documents--

Mr. Clamp: No.

Mr. Callahan: --or was it your intention to have one of your employees do it?

Mr. Clamp: Always that intention.

Mr. Callahan: First, you gave instructions to Mr. ??Patton. Did you give him those instructions in writing? What were the instructions as best you can remember that you gave Mr. ??Patten before he left your office with the document?

Mr. Clamp: I told him to go to room 151 in the Legislature at 10:30 and that inside he would in all probability see one lady and that was Ms. Artmont. I said: "Make sure that it is Ms. Artmont. Serve her with her copy and then she will point out Mr. Gillies to you, and serve him." Those were my only instructions.

Mr. Callahan: According to the jurat of it, your affidavit was sworn on January 22, 1987, so you made--

Mr. Clamp: Is that a Thursday?

Mr. Callahan: Yes. You made it very shortly--in fact, can you tell us what time that affidavit was taken?

Mr. Clamp: Five o'clock in the afternoon, I think, give or take a minute or two.

Mr. Callahan: That was the same day as the service of the document?

Mr. Clamp: That is right.

Mr. Callahan: Would it be fair to say that what is in your affidavit is your best recollection? Do you have any notes that you could refer to when you were--

Mr. Clamp: No.

Mr. Callahan: Is there any doubt in your mind that what you indicated in your affidavit was clear?

Mr. Clamp: None at all.

Mr. Callahan: Ms. Artmont seems to believe that because she got you in a pickle, you are trying to get out of that pickle by preparing an affidavit of the nature that you have presented. Were you in any difficulty at all as a result of the service that was effected that day?

Mr. Clamp: No.

Mr. Callahan: Did that have any bearing or any effect on the contents of your affidavit?

Mr. Clamp: No.

Mr. Callahan: When you gave your affidavit, were you aware that there was the possibility of having to appear before this legislative committee?

Mr. Clamp: No, as a matter of fact, I was not. I was aware that this was not an ordinary situation or what had been an ordinary situation was rapidly becoming an extraordinary one. I was aware of that. I knew that what had turned out to be an ordinary job for me was taking a slightly more exotic turn.

Mr. Callahan: We understand from Ms. Artmont in her testimony that the conversation she had with you on the telephone was rather lengthy. Do you recall how long that conversation was?

Mr. Clamp: Five to 10 minutes, which is a lengthy conversation just to arrange something like this; I do admit that. Yes. The reason was, I think, that the particular day I called, Mr. Gillies was out of town. Mr. ??Patton works for us only on Wednesday and Thursday every week; so I was doing my very best to make a mutually agreeable arrangement that would fall on a Wednesday or a Thursday.

Mr. Callahan: Where does he work on the other days?

Mr. Clamp: He lives and works in Orillia, but he has such other employment that he can come down and work for me those two days every week.

Mr. Callahan: That he is off, or what?

Mr. Clamp: I presume so.

Mr. Callahan: Can you tell me, in that five- to 10-minute conversation, who did most of the talking?

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(Mr. Clamp)

...work for me mostly two days every week.

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Mr. Callahan: Then he is off or what?

Mr. Clamp: I presume so.

Mr. Callahan: Can you tell me in that five to 10 minute conversation, who did most of the talking?

Mr. Clamp: It was just questions and answers.

Mr. Callahan: You knew Mr. Gillies was in Ottawa. Did you question Ms. Artmont as to when Mr. Gillies would return from Ottawa?

Mr. Clamp: That is right. When would he be back?

Mr. Callahan: When did she tell you he would be back?

Mr. Clamp: As far as I can recollect, she said certainly he would be back on Wednesday and Thursday. Once coming back, he would be back the following day. I have to admit that I made the most convenient arrangement for myself, which was the Thursday morning.

Mr. Callahan: That was the reason the Wednesday was not used.

Mr. Clamp: Yes and he was in a specific place at a specific time on the Thursday morning, which is very helpful when we are trying to serve someone.

Mr. Callahan: Ms. Artmont has testified, and in fairness to her, she did not make any notes of this conversation either, she testified that the reference you made was to a letter.

Mr. Clamp: No, I do not recall saying that. I do not think I did. She may recall it and I am not saying that she did not recall it that way, but I did not describe this document as a letter.

Mr. Callahan: What I want to get at, Mr. Clamp, is I want to know whether or not you, rather than tell the person who you are calling what kind of a document you are serving and run the risk that they might disappear that you might use terminology which was not totally accurate.

Mr. Clamp: Yes, I would.

Mr. Callahan: Did you on this occasion?

Mr. Clamp: No.

Mr. Callahan: You are absolutely certain of that?

Mr. Clamp: Absolutely certain.

Mr. Callahan: You started off the conversation by asking who the person on the other end was and you were told it was Ms. Artmont, I gather.

Mr. Clamp: Yes. I asked to speak to Ms. Artmont.

Mr. Callahan: Why did you ask to speak to Ms. Artmont? Who gave you those instructions?

Mr. Clamp: No one.

Mr. Callahan: How did you know Ms. Artmont? Oh, I see, she was one of the people named in the statement of claim. All right, so you specifically spoke with her. So, when the phone was answered, did you get her right away? Or, did someone else answer the call?

Mr. Clamp: First, I had to call the Queen's Park number to find out if Mr. Gillies's office had a number. You see I found out who Ms. Artmont was by reading page 2.

Mr. Callahan: The long and short of that I gather is you called the Queen's Park number asked the operator for Ms. Artmont.

Mr. Clamp: Or, Mr. Gillies's office.

Mr. Callahan: You were put through. Now, when you got Gillies's office did you get Artmont immediately?

Mr. Clamp: I think so. I said, may I speak to Lyn Artmont and she said, "This is Lyn Artmont, as far as I recollect."

Mr. Callahan: You identified yourself?

Mr. Clamp: Yes.

Mr. Callahan: She indicates that she never heard the words, "Metro Process Servers."

Mr. Clamp: No, I did not say Metro Process Servers. I just said I have some legal papers to bring to yourself and Mr. Gillies from the law firm of Stikeman, Elliott. I did not say that I am so and so from Metro Process Servers. I do not believe I said that.

Mr. Callahan: Did you identify yourself as being somebody from Stikeman, Elliott?

Mr. Clamp: No, as far as I recollect, I said the papers were from Stikeman, Elliott.

Mr. Callahan: You did not identify yourself as being somebody calling from Stikeman, Elliott.

Mr. Clamp: No.

Mr. Callahan: You have no authority to do that from the instructions from Stikeman, Elliott?

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Mr. Clamp: No.

Mr. Callahan: Would that be your practice with any other papers that you serve for any other law firm that you would indicate that you were the law firm?

Mr. Clamp: No. The majority of papers are served without deployment, I have to tell you.

Mr. Callahan: Did you canvass with her the location of Mr. Gillies over that period of time of when he was returning from Ottawa and where he would be and so on?

Mr. Clamp: Yes.

Mr. Callahan: Was that a good portion of the conversation you had with?

Mr. Clamp: Yes, that was the bulk of the conversation, arriving at a mutually convenient time and place.

Mr. Callahan: You said you called Artmont because she was on the documents as well--  
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a good portion of the conversation you had with--

Mr. Clamp: Yes, that was the bulk of the conversation arriving at a mutually convenient time and place.

Mr. Callahan: You said you called Artmont because she was on the documents as well. Did you tell her that you had papers to serve on her as well?

Mr. Clamp: Yes.

Mr. Callahan: Did you make an appointment to serve those on her some time other than Thursday?

Mr. Clamp: No.

Mr. Callahan: Why did you leave it for both of them to be served on the same day?

Mr. Clamp: Expediency.

Mr. Callahan: Did she inquire from you what the papers were or show any curiosity as to what the papers were?

Mr. Clamp: No.

Mr. Callahan: She did not.

Mr. Chairman: Mr. Callahan, I have several other members who want to question the ??witness.

Mr. Callahan: I will pass for the moment ??--

Mr. Villeneuve: Mr. Clamp, you treated this particular case in somewhat of a normal fashion, other than you knew the people who were to receive the documents that you had were somewhat difficult to--

Mr. Clamp: Yes.

Mr. Villeneuve: So you were the liaison between Stikeman and the people who were to receive these papers.

Mr. Clamp: Yes.

Mr. Villeneuve: Your firm would deliver large numbers of like papers in a day, a week, a month?

Mr. Clamp: Yes. When you say "like papers," certainly legal process, but libel actions are a very small proportion of our overall turnover.

Mr. Villeneuve: You would serve people who had to be served on Wednesdays and Thursdays only.

Mr. Clamp: No. Mondays, Tuesdays and Fridays also.

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Mr. Villeneuve: This one individual was available to you Wednesday and Thursday.

Mr. Clamp: That is right.

Mr. Villeneuve: And he happened to be the one who was going to--for whatever reason--deliver these papers.

Mr. Clamp: Yes, purely an internal reason.

Mr. Villeneuve: Not being learned in the law like some of my friends across the way, what is the requirement of a statement like you delivered to Mr. Gillies and Ms. Artmont? What are your legal requirements as a server?

Mr. Clamp: Just to hand them a copy of the original document.

Mr. Villeneuve: It has to be done personally.

Mr. Clamp: Yes. Personal service is rule 16 in the ??Ontario courts Rules of Civil Procedure. There is an alternative to personal service. For instance, if Lyn Artmont had said to me, "I am going to be away from Queen's Park for two weeks, but I live at such and such an address; you can serve me there," and I had gone to such and such an address and Miss Artmont was out but her mother was in, then I could have left a copy with her mother and the same day or the following day, mailed a copy to Miss Artmont at that address. Five days later, that would have deemed to be personal service. Those are the two definitions of personal service; handing it to you personally--person to person--or leaving it for you at your regular place of abode with an adult member of the same household and mailing a copy on the same day or the day after. That is deemed to be personal service.

Mr. Villeneuve: Your firm prefers to do it on a personal basis.

Mr. Clamp: Yes.

Mr. Villeneuve: You then can report back to the legal firm that it has been done.

Mr. Clamp: We do an affidavit of service.

Mr. Villeneuve: Wednesday and Thursday, because of purely internal reasons, were the days that were preferable to you as the server of these documents to Artmont and Gillies.

Mr. Clamp: Yes.

Ms. Fish: Could I just understand--you served Pauline Comeau on Thursday, January 22.

Mr. Clamp: Yes.

Ms. Fish: And you indicated earlier that you had had no conversation with her prior to that.

Mr. Clamp: No, I did not say that.

Ms. Fish: I am sorry. When did you think you had had a telephone conversation with her?

Mr. Clamp: I arranged on that same day, Thursday, to meet her the following Monday.

Ms. Fish: So your first telephone conversation with Miss Comeau was on Thursday, the 22nd. Would that be your recollection?

Mr. Clamp: Yes, and we made an arrangement for Monday morning.

Ms. Fish: To serve the papers on the following Monday.

Mr. Clamp: Yes.

Ms. Fish: When you said earlier that you had no specific instructions about service from Stikeman, Elliott, did they give you indication as to whether one among those named in the documents was more important to be served--

M-1110 follows



February 18, 1987

(Ms. Fish)

...specific instruction about service from Stikeman, Elliott. Did they give you any indication as to whether one among those names in the documents was more important to be served than another?

1110

Mr. Clamp: No.

Ms. Fish: Did they indicate any order in which service should occur?

Mr. Clamp: No.

Ms. Fish: Why would you have made an arrangement, or would it be your normal practice to make an arrangement, to serve people at different times, when the service is occurring in roughly the same locations?

Mr. Clamp: I did not, by reading this, that the reporters for the Sun, Ganley and Comeau, spent most of their time here. I thought we would be able to serve them at the Sun building at ??444 King Street East. When my man went and served the Sun he went from here on that particular day, down to the Sun and served the Toronto Sun Newspaper Corporation. He was told then that Ganley and Comeau are to be found mainly in the Legislature building and I cannot remember when, but you will be able to see tomorrow when you see the work sheets, on what date Ganley was served. Mr. Patton served him, but I served Pauline Comeau about 6:30 on the Thursday evening, which was just a chance opportunity.

I thought if I am going to be at Queen's Park and there is a chance she is going to be there, I may as well serve her and then we will not have to worry her on Monday. It just so happens she was there. That is the only reason I served her on that particular occasion.

Ms. Fish: Is there any special reason for the order of service?

Mr. Clamp: No.

Ms. Fish: It went first to Gillies, Artmont and then to the Toronto Sun?

Mr. Clamp: No. I have no control over the style of cause, of course. That just comes to me as it is. I get no special instructions. Stikeman, Elliott do not tell me how to serve papers. They just say, "We want these served." I look at who has to be served and I make a list of order of priority, for want of a better word, that benefits my firm, nothing else. The only thing I am concerned with is the efficiency of my firm and spending as little time and money to get the job done.

Ms. Fish: Okay.

Mr. Clamp: I am more particularly concerned with time than with the money.

Ms. Fish: On the question of identification, you indicated that business cards only are issued to your servers for identification purposes?

Mr. Clamp: Yes.

Ms. Fish: Can you show us a sample of your business card?

Mr. Clamp: There we are.

Ms. Fish: Thank you very much.

Mr. Clamp: Maybe you would like to keep that.

Ms. Fish: Okay. I note that it is not personalized.

Mr. Callahan: Is that service or delivery?

Ms. Fish: That is courtesy, Mr. Callahan.

Mr. Clamp: Courtesy, yes.

Ms. Fish: I note that it does not include your name?

Mr. Clamp: That is right.

Ms. Fish: Would that be normal, that the business cards would simply indicate Metro Process Servers and would not have the name of the person?

Mr. Clamp: There again, that is just for in-house purposes. There are four of us working. In fact, sometimes there are five of us working, because if we are very busy we have access to part-time workers. We can give everyone the same card and it does not have someone else's name on it.

Ms. Fish: Part-time workers such as Mr. Patton, who works for you Wednesday and Thursday?

Mr. Clamp: Yes, that is right.

Ms. Fish: Are you aware of whether any of your employees would have any other identification they would normally produce at point of service?

Mr. Clamp: No. I know Mr. Patton works for the Ontario hospital in Orillia, I think, or one of the Ontario government facilities in Orillia and he may have. I know when I worked for Metro licensing I had a Metro identification with my picture on it, so maybe Mr. Patton has that kind of thing and if anyone wanted to say, "Well, how do I know you are David Patton?", then he could say, "This is my ID from some other enterprise or job, and that is my picture, as you can see." He may have done that.

Ms. Fish: Okay. Thank you very much. No further questions.

Mr. Morin: Do we operate in the same way as we operate in the House, in rotation?

Mr. Chairman: No.

Mr. Morin: Is there any particular reason for that?

Mr. Chairman: Essentially what I do is take rotation but because,

during the course of these hearings, there is often one party who is more interested in pursuing the questions than others, I try to let them have.

M-1115-1 follows



...essentially, I take rotation, but because during the course of these hearings there is often one party that is more interested in pursuing the questioning than others, I try to let them have as much time as possible.

For example, if one member goes on questioning at some length, I will then try to balance out the time by perhaps getting a couple of quick questioners in from some other caucus. Aside from going to some time limitation process, I just use a rough guide to try to make sure that everybody who wants to ask a question gets a chance and that the time is roughly equal.

Mr. Callahan: Eminently fair.

Mr. Morin: Because I respect the chair, I will not comment.

Interjection.

Mr. Chairman: Objection noted.

Mr. Callahan: What about who is in the chair?

Mr. Morin: Mr. Clamp, you have two employees in your firm. That is what you said?

Mr. Clamp: Yes, and access to maybe another one or two if we need them.

Mr. Morin: How many part-time employees do you have?

Mr. Clamp: One.

Mr. Morin: That is Mr. Patton?

Mr. Clamp: That is Mr. Patton. —

Mr. Morin: When Mr. Patton delivered his letter, according to Ms. Artmont, or his statement of claim, according to you, was he was on holidays?

Mr. Clamp: No, as far as I know.

Mr. Morin: So he was on duty as far as his job is concerned? Do you know where he works?

Mr. Clamp: He used to work for the facility in Orillia, but since then, my understanding is that he no longer works there.

Mr. Morin: Does he work for the Ministry of Community and Social Services?

Mr. Clamp: Not any more I do not think.

Mr. Morin: When you hire people, do you inquire about the background of the individual?

Mr. Clamp: I have known Mr. Patton for 10 years.

Mr. Morin: So you know his background?

Mr. Clamp: Yes.

Mr. Morin: You know where he works?

Mr. Clamp: Yes.

Ms. Fish: How did you know him?

Mr. Morin: Where does he work?

Mr. Clamp: There is a facility for mentally handicapped children in Orillia, I think.

Mr. Morin: The Ministry of Community and Social Services?

Mr. Clamp: Yes, I think so; for the Ontario government. I do not think he works there now. I think he has completely severed his employment with that firm.

Mr. Morin: He is no longer there?

Mr. Clamp: I do not think so.

Mr. Morin: You are paid each time you deliver a letter only at the time that you have delivered the letter. Let say that you have a firm who gives you 20 documents to deliver. You are paid only once you have shown and you have indicated to it that the document was served. Am I correct?

Mr. Clamp: Yes. We get paid also if we make attempts to serve it and we cannot. For instance, if someone has left the country, obviously, we cannot serve him or if he has moved to Sault Ste. Marie, then the firm will be happy to know that, but we do not--

Mr. Morin: Sault Ste. Marie is northern Ontario; that is not abroad.

Mr. Turner: Be careful.

Mr. Clamp: If anyone has moved away from Toronto--of course, they do not send us to these exotic places. They send it to someone in that particular town. We get paid when the job is finished. If we cannot serve them, there will be a very good reason, but they still pay us for the attempt of service.

Mr. Morin: What kind of compensation do you receive, then, if the document has not been served?

Mr. Clamp: If it is in Toronto, we have a set fee of \$15 for an attempt service which includes the travel that we did. Most of our stuff is served, I would like you all to know.

Mr. Villeneuve: We noticed.

Mr. Callahan: That sounds like another commercial, Mr. Chairman. Are we breaking for station identification?

Mr. Morin: You obviously get more compensation if the document is delivered?

Mr. Clamp: Yes.

Mr. Morin: Would you take any type of means to make sure that the document is delivered? In other words, would you go above the law to deliver documents?

Mr. Clamp: No. I have to serve documents in accordance with the rules.

Mr. Morin: Which rules?

Mr. Clamp: The rules of civil procedure.

Mr. Morin: Yes, but do you pay attention to the rules of whatever location in which you have to deliver that document?

Let me rephrase that. Section 33, I believe--

Mr. Martel: Thirty-eight.

Mr. Morin: I am sorry. Section 38 says--mind you; you are not a lawyer and I am not asking you to give me a definition of what the section says, but our understanding here is that no documents can be served in the precinct of the Legislature unless it is a document which is--

Mr. Clamp: Yes. I understand what you are saying.

Mr. Callahan: Unless they have the Speaker's authority.

Mr. Morin: Did you know that?

Mr. Clamp: No, I did not. That thought never crossed my mind because the arrangement was made so easily. If Ms. Artmont--

M1120 follows



(Mr. Morin)

--I am not asking you to give me a definition of what the section says, but our understanding here is that no documents can be served in the precincts of the Legislature unless it is a document which is--

1120

Mr. Callahan: --unless they have the Speaker's authority.

Mr. Clamp: Yes, I understand what you are saying.

Mr. Morin: Did you know that?

Mr. Clamp: No, I did not. That thought never crossed my mind because the arrangement was made so easily. If Ms. Artmont had said to me, "Well you know you cannot serve this here because of so and so." I would have immediately--

Mr. Morin: She did not say that?

Mr. Clamp: No, she did not. Had she said that I would have immediately contacted Stikeman, Elliott and said, "Well they say I cannot serve him there because of so and so." Then of course there would have been a re-evaluation of the whole thing.

Mr. Chairman: Could I just interrupt for a moment. Could I get you to move a little closer to the microphone? The Hansard operator is having a little difficulty.

Mr. Morin: In your statement, you say, "I have previously served members of the Legislature at Queen's Park and my standard practice in such cases is to phone the member in advance to arrange a mutually convenient time for service." This was not the first time that you delivered documents at Queen's Park?

Mr. Clamp: No, I served one MP, once before.

Mr. Morin: Personally?

Mr. Clamp: Personally, yes.

Mr. Morin: Can I ask what kind of document it was?

Mr. Clamp: It was a statement of claim, not a liable, just a normal statement of claim.

Mr. Callahan: It was not his mortgage, was it?

Mr. Clamp: No, ??I cannot remember what it was, I just know that it was a personal thing, and before coming here into this building, because I did not know where his office would be and I did not know how easy it was to get a specific office, I phoned him first and he made an arrangement to see me, because I explained to him what it was.

Mr. Morin: Did the member at that time say to you, "Look, I think you should speak to the Speaker."

Mr. Clamp: No.

Mr. Morin: Do you recall over 14 years experience as a??

Mr. Clamp: ??I suppose.

Mr. Morin: Yes. It is your first time that you ever hear that by delivering such a document you would be in trouble?

Mr. Clamp: I hate to hear that word.

Mr. Morin: Let us put it this way that you would encounter difficulty?

Mr. Clamp: Difficulties, yes.

Mr. Morin: Difficulties, yes, that is the first time ever.

Mr. Clamp: Yes.

Mr. Morin: You obviously meet with a lot of lawyers all the time in your field.

Mr. Clamp: Yes.

Mr. Morin: Possibly former members of parliament?

Mr. Clamp: Not too many former members of parliament. Lawyers, yes.

Mr. Morin: You never had discussions with them as far as the standard, the procedures in the House?

Mr. Clamp: No.

Mr. Morin: You mentioned a minute ago, ??if I read. Did you read the ??style of cause to Ms. Artmont?

Mr. Clamp: To the best of my recollection, I quoted part of the ??style of cause, just to show that she and Mr. Gillies were in it.

Mr. Morin: How many documents would your firm deliver in a day?

Mr. Clamp: On this particular day, Mr. Patton did 45.

Mr. Morin: Did 45.

Mr. Clamp: Yes.

Mr. Morin: I cannot recall everything I do, things said to me that I do not pay particular attention to, how can you remember 45 documents that had been delivered in a day? Is it because the document that you delivered to Ms. Artmont and Mr. Gillies was a real hot one, so therefore I should be able to remember that one?

Mr. Clamp: No, it was out of the ordinary in so far as a member of parliament was involved. I have served liable actions.

Mr. Morin: But you always recollect?

Mr. Clamp: No, I do not recollect everything, no. If I served them myself then it is fairly total recall, I know what happened, I can recall it. I try not to serve too many myself. That is why I pay other people.

Mr. Morin: This one you recall particularly?

Mr. Clamp: I recall this particularly because I made the arrangements and I made the arrangements because I knew if I sent Mr. Patton here without making any arrangements he would waste a lot of time trying to find Mr. Gillies and Ms. Artmont. They may not even be here. There is a chance that they may be out somewhere or in a committee meeting, or somewhere in the province. That is why in this particular case I made the arrangements.

Mr. Morin: When you spoke to Ms. Artmont, and you mentioned to her, because this is what you said, what the purpose of the document was all about, the content of the document, at least part of it,--  
M-1125-1 follows



(Mr. Morin)

when you spoke to Ms. Artmont and you mentioned to her--because this is what you said--what the purpose of the document was all about, the content of the document, at least part of it, how did she react? Was she surprised? Was she composed? Was she snarky?

Mr. Clamp: No.

Mr. Morin: Was she rude to you? Did she say, "Not again."

Mr. Clamp: No.

Mr. Morin: Did she give you the feeling that she knew what you were planning to do?

Mr. Clamp: She made the arrangements with me that I have described without any of those emotions that you have just mentioned.

Mr. Morin: None at all. Very calm.

Mr. Clamp: Yes.

Mr. Morin: She did not offer any advice to you like saying, "Well, look, I do not think you should be delivering a document in room 151"?

Mr. Clamp: No. In fact, that was the very question I asked her.

Mr. Morin: You did ask her that?

Mr. Clamp: I certainly did.

Mr. Morin: "Is it all right if I can bring the document here?"

Mr. Clamp: Yes, I did.

Mr. Morin: "I will not be creating any problem?" That is what you said?

Mr. Clamp: Yes.

Mr. Turner: He is leading the witness.

Mr. Villeneuve: That is because of convenience. That has been said before.

Mr. Morin: In recollection, and I have asked the same question of Ms. Artmont yesterday, the purpose is to try to remember as best we can. Do you feel that you may have erred in some of the recollection?

Mr. Clamp: The only error I may have made that I may have telephoned her on the Monday instead of the Tuesday. The day that I phoned her to make the arrangements is not important to me and I completely put it out of my mind once the arrangements were made, because I did not think I would have to indulge in total recall because of this. I thought: "Well, I have made those arrangements and that was fairly simple. We have been lucky. Off you go and serve these." Then I put my mind to other things.

Mr. Morin: If you were to rewrite your affidavit today, are there things that you would like to add?

Mr. Clamp: No.

Mr. Morin: You would leave it as such.

Mr. Clamp: I would.

Mr. Morin: Except for the date.

Mr. Clamp: Yes. That is the only possible discrepancy.

Mr. Morin: As an individual, I have to make a choice. There are statements that are made by you and there are statements that are made by Ms. Artmont. In fairness to both of you, and I asked the same question yesterday to Ms. Artmont, who should I believe?

Mr. Clamp: I can only say that what you have read in my affidavit was sworn to as the truth and nothing but the truth.

Mr. Morin: This is where I am confused because I do not know who to believe. You are telling me that, as far as you are concerned, this is your full recollection and this is the truth.

Mr. Clamp: Yes.

Mr. Morin: I believe you.

Mr. Clamp: Thank you.

Mr. Chairman: Mr. Turner.

Mr. Morin: Excuse me, I am not finished yet.

Mr. Martel: He is on a roll.

Mr. Morin: That is the first time that has happened to me. Do not ?? me like that.

Mr. Chairman: We will not talk about the direction of the roll. We will just admit that you are on a roll.

Mr. Morin: When you collect documents from firms, do they tell you, "Be careful with this client"?

Mr. Clamp: No, only if he has a history of violent behaviour.

Mr. Villeneuve: No problem.

Mr. Clamp: I have to tell you no one in the 16 years has been violent towards me.

Mr. Morin: Would it be normal for the firm to warn you?

Mr. Clamp: If they had prior knowledge that the person to be served

was of a violent nature, they would warn me.

Mr. Morin: Let us not use the words "violent nature." If the person, let us say, has means to make a lot of noise? Would you feel intimidated? would you feel threatened? Or would you just barge right in just the same?

Mr. Clamp: My job is to serve the papers. That is all.

Mr. Turner: Just one point for clarification. I notice, Mr. Clamp, in your affidavit and in answer to the question put to you by Mr. Morin that you say you have previously served members of the Legislature. In answer to a question by Mr. Callahan, you said you had not.  
M-1130-1 follows



(Mr. Turner)

--from Mr. Morin, you say you have previously served members of the Legislature. In answer to a question by Mr. Callahan, you said you had not.

1130

Mr. Clamp: No, I do not think so.

Mr. Turner: Yes you did, with all respect.

Mr. Clamp: I have said all along, I have served one member of the Legislature in this building.

Mr. Turner: Okay, I am just trying to find out.

Mr. Clamp: I have served him, but I cannot remember his name.

Mr. Turner: Okay, I do not care. I just wanted the record to be straight.

Mr. Clamp: I have served one person, one MPP in this building.

Mr. Turner: Great, that is all I wanted to know.

Mr. Warner: I apologize in advance for the questions I am about to ask have already been asked and answered, but unfortunately I had to leave the room for a little while.

The affidavit was prepare on the same day as the documents were served?

Mr. Clamp: Yes.

Mr. Warner: Why did you prepare the affidavit?

Mr. Clamp: At the request of Stikeman, Elliott.

Mr. Warner: So, obviously it is not a normal procedure.

Mr. Clamp: No.

Mr. Warner: In terms of the sequence of events, you arrived here some time between 10 and 10:30 a.m., served the papers around 10:30?

Mr. Clamp: Yes, Mr. Patton did.

Mr. Warner: Mr. Patton did. The matter was subsequently raised in the Legislature at 1:30 p.m. or thereabouts. You then received a call from the lawyers.

Mr. Clamp: I certainly did, yes, around about two o'clock.

Mr. Warner: So they had a interest in the matter.

Mr. Clamp: They certainly did, a very immediate interest.

Mr. Warner: So, by five o'clock that day, you had prepared the affidavit, is that correct?

Mr. Clamp: Well, yes. When I got the call to go to Stikeman, Elliott, I was already at home, miles from here, and so they asked me what had happened. The procedure I have just gone to great lengths to describe here, I described to Mr. Brown of Stikeman, Elliott and he asked "Can we prepare an affidavit on this information to that effect?" I said certainly I will come in tomorrow and swear that. He said, "We would like you to come right now and swear that." Of course, I did go downtown and swore that, that affidavit was prepared. Before I signed it, I read it, he made a couple of changes before it was completed and then we came here.

Mr. Warner: Okay. Then obviously you would believe, because it was prepared so shortly after the actual event, it is a very accurate reflection of what you believe occurred?

Mr. Clamp: I maintain that, yes.

Mr. Warner: There were two other things. One was the determination of the actual day. If I recall from what you said previously, Mr. Patton works on Wednesdays and Thursdays. Therefore, it should be a Wednesday or a Thursday.

Mr. Clamp: If at all possible.

Mr. Warner: Who suggested Thursday?

Mr. Clamp: I did. I cannot remember why. Maybe the time was wrong on the Wednesday, but certainly all the circumstances facilitated my serving these papers on the Thursday morning and I have to tell you I was only looking at it from my point of view. That is the only thing I was concerned with notwithstanding the fact that Mr. Gillies would be available on that day. So, the whole circumstances would have seemed to benefit me on that particular Thursday morning.

Mr. Warner: Do you recall if Ms. Artmont said Mr. Gillies would not be available on the Wednesday?

Mr. Clamp: No, I do not recall. I do not think she said that. As I said, it was more convenient for me on Thursday.

Mr. Warner: Yes, but did she at any point suggest that Thursday would be the best time to reach Mr. Gillies?

Mr. Clamp: No, I made Thursday the best time for myself.

Mr. Warner: Lastly, returning to the statement that you identified the documents to Ms. Artmont by reading to her the style of cause, you had a conversation that lasted somewhere between five and 10 minutes approximately. You mentioned that the document, or whatever term you used, was from the law firm of Stikeman, Elliott--

M-1135 follows.

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in between five and 10 minutes, approximately. You mentioned that the document, or whatever term you used, was from the law firm of Stikeman, Elliott. Correct?

Mr. Clamp: Yes.

Mr. Warner: Were you able to impart to her on the phone that this was an important matter?

Mr. Clamp: No, we did not discuss the importance of the matter. No. I just said that I had these to serve upon Mr. Gillies and herself. Most of our conversation dealt with availability. The upshot was that we arrived at this time or I sort of steered the whole conversation around to this particular time on the Thursday.

Mr. Warner: Did she quiz you about what kind of papers these are?

Mr. Clamp: No. She might have said what is it, but she did not say who is involved, what did I say, who is supposed to say this, that, or the other--nothing like that.

Mr. Warner: Did she seem at all concerned about the nature of the--

Mr. Clamp: No, not overly concerned.

Mr. Warner: She took it as fairly routine then.

Mr. Clamp: She took it as fairly routine, and I was not surprised because, as I have said, before this is served, there is a notification. When I get this to serve, I already know that the notification has been served.

Mr. Warner: The folks have been notified. From your experience in having served papers over a long period of time, the recipients of these--are they surprised when they receive the actual notice?

Mr. Clamp: Very rarely where newspapers and reporters are concerned. Very rarely are they surprised.

Mr. Warner: They are anticipating--

Mr. Clamp: Not anticipating, but--

Mr. Warner: But they are not surprised to be getting a law suit--

Mr. Clamp: They are not surprised, no, because I have found it is an occupational hazard for reporters.

Mr. Warner: Apparently it is for members, too.

Mr. Chairman: Mr. Callahan, I just want to remind you we have about 20 minutes left of the morning session and I have three people who want to get questions in.

Mr. Callahan: I will not be very long. Did you serve the notice of intent on--did your firm?



Mr. Clamp: No.

Mr. Callahan: They did not serve the notice of intent. Did you discuss the notice of intent with--

Mr. Clamp: ??No.

Mr. Callahan: I believe you have indicated in your testimony that on Thursday at 6:30, Miss Comeau was served.

Mr. Clamp: Yes. Around about that time.

Mr. Callahan: Do you know Miss Comeau?

Mr. Clamp: Now I do.

Mr. Callahan: You know her now, but you did not know her at the time.

Mr. Clamp: No.

Mr. Callahan: I gather she is present in the room today.

Mr. Clamp: I do not know. I have not looked. I did not know Miss Comeau, but I had spoken with her on that Thursday afternoon. So while I was at the Legislature, I said to one of the reporters, "By the way, is Miss Comeau here?" She said, "Yes, she is right over there."

Mr. Callahan: Did you serve her or did Mr. Patton?

Mr. Clamp: I served her.

Mr. Callahan: You served her. At what time was it on Thursday you served her?

Mr. Clamp: About 6:30.

Mr. Callahan: I thought on Thursday at 6:30 you were going down to--

Mr. Clamp: No, I was at Stikeman's at five o'clock.

Mr. Callahan: So this was after you ??had left Stikeman's.

Mr. Clamp: Yes. I came to this building with Mr. Brown and ??Mr. Lederman from Stikeman's just after six o'clock. We spoke to a clutch of reporters outside the press room. That is when I served it. I served Miss Comeau inside the press room.

Mr. Callahan: Was this a matter of convenience since you had already been dragged down from your home to go to Stikeman, Elliott, but you--

Mr. Clamp: It was for me. It is a matter of inconvenience to be dragged down from my home to Stikeman, Elliott, but I did not mind that because they are a very good client of ours. When they said, "We want you to come to the Legislature with us," my immediate thought was, "Well, I will take a step up. If Miss Comeau is there, I will serve her there rather than Monday morning as we have arranged." It was just convenience again.

Mr. Callahan: Do you have a note that is was Thursday that you called Miss Comeau? Could it have been on another occasion?

Mr. Clamp: No.

Mr. Callahan: You do not have a note.

Mr. Clamp: No.

Mr. Callahan: So when you tell us it was Thursday, it could just as easily have been Wednesday.

Mr. Clamp: Yes, but I do not think it was.

Mr. Callahan: But you do not have a note to indicate which it was.

Mr. Clamp: I do not have a note. No. The only note I have, again, is the time I raised to serve her.

Mr. Callahan: When you contacted Miss Comeau did the conversation last 10 or 15 minutes, or was it--

Mr. Clamp: No.

Mr. Callahan: --quite brief?

Mr. Clamp: Yes.

Mr. Callahan: When you spoke to Miss Armont on the phone, did you use the word "serve," or did you use the word "deliver"?

Mr. Clamp: I do not recall. No, I do not know what I said. I just made it plain that I had this legal process from Stikeman, Elliott for her and Mr. Gillies. There is a very good chance I used the word "serve," because they were to be served, not just delivered.

M-1140 follows

(Mr. Clamp)

...I do not ~~know~~ what I said. I just made it plain that I had this legal process from Stikeman, Elliot's for her and Mr. Gillies. There is a very good chance I did use the word serve because they were to be served and not just delivered.

1140

Mr. Callahan: You drew an affidavit after you served it and it reads, "I [so and so] did serve, not deliver.

Mr. Clamp: Yes. The affidavit reads, "I did serve."

Mr. Callahan: Have you ever tested before a court or a legislative committee before?

Mr. Clamp: Not a legislative committee.

Mr. Callahan: Have you ever testified before a court?

Mr. Clamp: Oh, yes.

Mr. Callahan: How often?

Mr. Clamp: A hundred times.

Mr. Callahan: Are you paid for attempts? You have indicated that you only get paid for attempts when the person is--

Mr. Chairman: We are getting kind of repetitious here and I would like to work with the last two members. If you could just make it short--

Mr. Callahan: Let me just do the attempts because I think it was mentioned by--

Mr. Clamp: Yes, we get paid for it.

Mr. Callahan: You seem to give me the impression that it was only when the person had sort of skipped the immediate location.

Mr. Clamp: We try to serve people the first time because it is expeditious for us to do that. It is the best use of our available time. If, for instance, we sent to serve Pauline Comeau, just as an example, and she was not in, then that is not our fault. It is just that we would send someone or we would go at a time when some people are home or would normally be home. But, some people are not. So, we have no way of knowing.

Mr. Callahan: The long and short of it is, you would charge a fee for that attempted service.

Mr. Clamp: Yes. Sometimes we do and sometimes we do not. It is all at my discretion.

Mr. Callahan: Finally, you indicated that, because she had the notice of intent--or at least you presume she did since this was a libel



action--did you use the libel at all?

Mr. Clamp: No.

Mr. Callahan: Fine. Thank you.

Mr. Chairman: I am tempted to go on a rotation, but I will not.

Mr. Morin: Are you familiar with the affidavit of Ms. Artmont?

Mr. Clamp: I have read it.

Mr. Morin: You have read it. If someone was to ask you, for instance, "Mr. Clamp, would you please deliver a document to a court," would you deliver it to that court?

Mr. Clamp: Only in the corridor outside the court.

Mr. Morin: Would you go inside the court while its proceedings were being held?

Mr. Clamp: No.

Mr. Morin: Even if, for example, I called you and said, "Look, I think there is a witness that I just discovered will be there this morning. Will you mind going into the court and giving him the document?"

Mr. Clamp: I would not do it in the courtroom, no.

Mr. Morin: Why not?

Mr. Clamp: It would not be good service. You may not know it but--

Mr. Morin: Is there a law against it?

Mr. Clamp: There is nothing in the rules of practice, which I keep quoting, to say, "Do not serve anything in court." It is accepted procedure. I have been asked to serve people at court, but never in the actual room where the judge or the jury is sitting. Always in the corridor.

Mr. Chairman: What do you think would happen if you entered into a court and interrupted proceedings. What would the judge say to you if stopped his proceedings to serve that writ?

Mr. Clamp: I would never give him a chance to say anything. That would never happen.

Mr. Chairman: What do you think he would do. What kind of words do you think he would use.

Mr. Clamp: Judicial words.

Mr. Chairman: Yes. Get out your judicial dictionary. You are going to hear some more.

Mr. Clamp: That may well be.

Mr. Martel: Around here it is different.

Mr. Morin: When Mr. Patton was sent here to deliver documents was he given instructions also to deliver a document to Ms. Comeau?

Mr. Clamp: To Ms. Artmont?

Mr. Morin: Not only to Ms. Artmont, but to Ms. Comeau from the Toronto Sun.

Mr. Clamp: No.

Mr. Morin: He was not given any instructions to deliver a document to Ms. Comeau?

Mr. Clamp: Maybe he was asked to see if Ms. Comeau was in the press gallery or where the press congregated upstairs.

Mr. Morin: He did not have a document to deliver to her.

Mr. Clamp: Oh, yes he had one there. He had all of them. They were all attached to the work sheet.

Mr. Morin: Ms. Comeau was not there.

Mr. Clamp: No.

Mr. Morin: Did he report to you that he was not able to reach Ms. Comeau?

Mr. Clamp: Yes.

Mr. Morin: This is when you decided to deliver the document yourself to Miss Comeau?

Mr. Clamp: That is right.

Mr. Morin: Okay. You have read, as you mentioned, the affidavit of Ms. Artmont. You know yours. Would you say that Ms. Artmont is somewhere out in left field with her statement?

Mr. Chairman: I am not sure.

Mr. Morin: In the right field?

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February 18, 1987

(Mr. Morin)

Would you say that Ms. Artmont is out somewhere in the left field with her statement?

Mr. Chairman: I think I will call "left field" unparliamentary but I am not sure.

Mr. Bossy: In the right field?

Mr. Morin: Would you say that--I will not use a word I know is not correct--her statement is erroneous?

Mr. Clamp: No.

Mr. Morin: Would you say--in comparison with yours?

Mr. Clamp: I have no idea. I am not qualified to comment on her statement at all. She has made it to the best of her recollection. I can only tell you that mine was made in the same way, and I recollected what happened in that statement.

Mr. Morin: Did you ever tell her that--or do you agree with what she says, "I received a telephone call while I was in my office at Queen's Park from a man who said he was from the law firm of Stikeman, Elliott." Did you ever say that?

Mr. Clamp: I may have said on behalf of the law firm--

Mr. Morin: On behalf--but you did not say you were from the firm.

Mr. Clamp: No.

Mr. Morin: Okay. She also says that at no time during the telephone conversation that occurred on January 19--described ?? in this affidavit--did the man I was speaking to--did you identify yourself as Mr. Clamp to her?

Mr. Clamp: Not necessarily, no.

Mr. Morin: You did not?

Mr. Clamp: No.

Mr. Morin: Then, "the man I was speaking to say he had legal documents to serve or identify the documents by reading to me the style of cause; is that true?

Mr. Clamp: No, I am afraid I did quote the style of cause.

Mr. Morin: You did quote?

Mr. Clamp: Yes.

Mr. Morin: So you do not agree with what she says.

Mr. Clamp: No.

Mr. Morin: Okay. Then she goes on to say, "I told him I would be in



my office all that day. He asked where Mr. Gillies would be. I told him Mr. Gillies was in Ottawa but that I would take the letter for him. The man said he had to hand deliver the letters to both of us, and asked where we would be on Tuesday. I told him Tuesday morning I would be in my office--that is Ms. Artmont speaking--and Tuesday afternoon I would be over at the Legislature in the west lobby. He asked about Mr. Gillies, and I told him Mr. Gillies would be returning some time that afternoon, that I could not give him an exact time." You say yourself that you brought the style of cause, you say also that you were told to go into the committee room to deliver the document there. She does not say that.

"He then asked--Ms. Artmont still speaking--about our schedules for Wednesday. I told him I would be in room 228 for most of the morning, and that Mr. Gillies was scheduled to be there, but I could not confirm for sure that he would be there. I said he would definitely be in the Legislature; Wednesday afternoon I would also be there in the west lobby. He asked about Thursday and I told him Mr. Gillies and I would be in the public accounts committee, room 151 all morning long until 12:40. We would be in the Legislature on Thursday afternoon."

Mr. Clamp: There we have, you see, a series of events until Mr. Gillies and Ms. Artmont come together in one place at one time. That is what I wanted to hear. When I heard that, I then finalized the arrangements for this room on the Thursday morning at the specific time.

Mr. Morin: She did not warn you; she did not say--because she did not know your name--sir, do not go there. That is not the proper place to deliver a document. She never said that. She did not even offer--

Mr. Clamp: No.

Mr. Morin: Okay. Then she said, "The man did say he did not wish to disturb Mr. Gillies, but did not ask whether it would be appropriate to serve Mr. Gillies during the meeting of the public accounts committee." Is that true?

Mr. Clamp: I said I did not wish to interrupt any proceedings. She gave me the impression that I would not be interrupting any proceedings in this room.

Mr. Morin: Then she goes on to say, "I did not advise the man that Mr. Gillies and I could be served during the meeting of the committee, nor was I asked whether this could be done." Did you ask her? Did you ask, because I seem to understand that you said to her, "Is it proper for me to go there? Is it okay if I deliver the document there?"

Mr. Clamp: That is what I asked her.

Mr. Morin: Okay; she says you did not ask that.

Mr. Clamp: Did not? You lead me to believe the contrary to that.

Mr. Morin: So in other words, again, she is not quite in line with what you think occurred.

Mr. Clamp: It is just a difference of recollection, maybe.

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Mr. Morin: "Following the telephone conversation--this is the last one--I did not know--

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"Following the telephone conversation"--this is the last one--"with the man, I did not know that he intended to serve Mr. Gillies and me with a statement of claim"--recall that you said you did read it--"nor did I know that these documents would be served on Thursday, January 22, during the meeting of the public accounts committee."

Mr. Clamp: I cannot believe that.

Mr. Morin: To you it is not--

Mr. Clamp: It is not credible.

Mr. Morin: She erred?

Mr. Clamp: It is not credible to me.

Mr. Morin: She is not factual?

Mr. Chairman: You are getting very close to the line here. I think we have pursued that enough.

Mr. Morin: Okay, that is all, Mr. Chairman.

Ms. Fish: Mr. Clamp, under very specific questioning from me earlier on what you did or did not read by way of style of cause on the telephone with Ms. Artmont, you indicated to me that you only read part of the style of cause.

Mr. Clamp: It could well be, yes. Only the part with which she will have specific interest.

Ms. Fish: Namely, that it dealt with Ivan Fleischmann, Phil Gillies and Lyn Armont?

Mr. Clamp: Yes.

Ms. Fish: Under that questioning, you indicated to me that you did not indicate that these were papers filed with the Supreme Court.

Mr. Clamp: No.

Ms. Fish: Nor that this was a statement of claim.

Mr. Clamp: I cannot honestly say that I did not say "statement of claim." I certainly did not describe the originating procedure.

Ms. Fish: On the question of deliver or serve, you have yourself, in answer to questions, shifted several times in the use of the terms. Is it possible that you left Ms. Artmont with the impression that you were delivering papers or do you believe that you specifically said "serve?"

Mr. Clamp: No, I gave her the impression that these had to be served personally, because she volunteered to take them on behalf of Mr. Gillies. Then I said, "No, these have to be served personally."

Ms. Fish: Is it possible that you could have said: "They must be



delivered personally. I must deliver them to him personally. I must give them to him personally"?

Mr. Clamp: Yes, it is possible I could have said, "I have to give them to him personally," because I do use that terminology, yes.

Ms. Fish: I am still troubled with the business of arrangements with Comeau. Am I clear that you are saying there were no arrangements to serve Comeau Thursday morning?

Mr. Clamp: I said to Mr. Patton, "Serve everyone that you can at the Legislature." He could not serve Ms. Comeau for some reason.

Ms. Fish: Is it possible that someone other than yourself might have phoned Comeau to make an arrangement for service?

Mr. Clamp: No. I spoke with her myself.

Ms. Fish: You are clear that the only time you spoke with her was on Thursday?

Mr. Clamp: Yes.

Ms. Fish: There is no possibility that you might have spoken with her on Tuesday?

Mr. Clamp: No, I do not think so. I cannot recall that.

Ms. Fish: But you do not have a specific note of when you did speak with her?

Mr. Clamp: No.

Mr. Chairman: We will stand adjourned until two. This afternoon's witness will be Sidney Lederman from the firm of Stikeman Elliott.

Before we do adjourn for the morning, we are having a little bit of a problem with repetition. It is coming about because members are leaving us for a little while and coming back in. I do not want to inhibit anyone's line of questioning, but it is a little awkward, I am sure, for witnesses who have to answer the same question two or three times simply because somebody was not here or was not listening. If you could help me a little bit in that regard, I would certainly appreciate it.

Any other business before we adjourn?

Ms. Fish: I just wanted to indicate one thing. Ms. Comeau is on public record, albeit not before this committee but by way of affidavit, as saying that she had a call about arranging process service on Tuesday, January 20, and that she understood she had an arrangement to be served on the morning of January 22 at public accounts. I note she is not on our list and I wonder if arrangements can be made either to request that she attend upon the committee, or in the absence of that, that she speak to that point by way of affidavit.

Mr. Chairman: When the committee gets to that point where you

consider whether you want to extend the hearings, it can call other witnesses. I have a little bit of a problem, because the matter of serving

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(Ms. Fish)

...committee or in the absence of that would you speak to that point by way of affidavit?

Mr. Chairman: The committee when it gets to that point where you consider whether you want to extend the hearings, to call on the witnesses, I would have a little bit of a problem, because the matter of serving papers on Ms. Comeau is not before the committee. We would have to do a look at precedence there, but I think later in the week, if somebody wanted to get an affidavit from her and she offered that of her free will, we could certainly accept that as evidence. If the committee decided that it wanted to call her as a witness, I would have to take a look at that.

Ms. Fish: By way of brief explanation, my reason for noting it is that there are two women involved in service, and the recollection by at least one that would conform to part of the affidavit that Mr. Clamp has filed, although it is a different person than Mr. Clamp believed he had that arrangement with--that might clarify what might otherwise appear to be a conflict in affidavits filed.

Mr. Chairman: I understand that. Okay, the committee stands adjourned until 2 o'clock.

The committee adjourned at 11:55 a. m.















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